

May 19, 2023

The Honorable Vern Buchanan
Chair, Health Subcommittee
Committee on Ways and Means
1139 Longworth House Office Building
Washington, DC 20515

The Honorable Lloyd Doggett
Ranking Member, Health Subcommittee
Committee on Ways and Means
1129 Longworth House Office Building
Washington, DC 20515

Re: 'Why Health Care is Unaffordable: Anticompetitive and Consolidated Markets'

Dear Chairman Buchanan and Ranking Doggett:

On behalf of the American Dental Association (ADA) and our 159,000 members, we thank you for holding a hearing on '*Why Health Care is Unaffordable: Anticompetitive and Consolidated Markets.*' The ADA continues to fully support the Congress and Administration pursuing anticompetitive behavior in the health insurance market, specifically as it applies to dental insurance markets.

As you know, in late 2020 Congress passed the Competitive Health Insurance Reform Act, which was then signed into law January 2021. This law repealed the McCarran-Ferguson Act's obstacles to pursuing anticompetitive behaviors in the health insurance markets by removing the antitrust exemption for health care insurance. The unfair protection of health insurers from some federal antitrust laws dated back decades due to a limited and antiquated exemption established under the 1947 McCarran-Ferguson Act. The new law makes the conduct of health insurers subject to more of the nation's antitrust laws, like all other U.S. businesses, and helps remove additional obstacles to investigation and enforcement. Since health insurers will now be subject to the same enforcement as other businesses, the ADA believes that both the Federal Trade Commission (FTC) and the Department of Justice (DOJ) will be more likely to investigate alleged anticompetitive practices and activities of health care insurers. The DOJ's Antitrust Division welcomed this new law with its support by saying, removing this exemption "will strengthen the Antitrust Division's ability to investigate and prosecute anticompetitive behavior."¹

The enactment of this law amending the McCarran-Ferguson Act remains a major achievement of Congress in pursuing anticompetitive behavior within health care. We further encourage the Ways and Means Committee to pursue this area by using its available oversight tools and encouraging DOJ to update Congress on its efforts to date in this area.

We would welcome the opportunity to speak with you in more detail and answer any questions you have regarding these comments. Please contact Mr. Chris Tampoio at tampioc@ada.org to facilitate further discussions.

¹ Press Release, U.S. Dep't of Justice, Justice Department Welcomes Passage of The Competitive Health Insurance Reform Act of 2020 (Jan. 13, 2021), <https://www.justice.gov/opa/pr/justice-department-welcomes-passage-competitive-health-insurance-reform-act-2020>.

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Sincerely,

George R. Shepley, D.D.S.
President

Raymond A. Cohlma, D.D.S.
Executive Director

GRS:RAC:ct