

ADOPTION OF ANTITRUST IMPROVEMENTS LEGISLATION

Several years ago, during the 108th Congress, Representatives Spencer Bachus (R-AL) and John Conyers, Jr., (D-MI) reintroduced the Health Care Antitrust Improvements Act, a bill designed to provide antitrust relief for self-employed physicians. ASA supports reintroduction and adoption of this or similar legislation as a means of leveling the playing field in negotiations between physicians and third-party payers.

Under this bill, courts would be required to apply a “rule of reason” antitrust standard to all negotiations between a health plan and two or more physicians. In short, they would be required to consider the impact of the challenged activity on competition, patient access to care and quality of patient care. The bill also would limit damages in private antitrust actions based on negotiations with health plans to actual damages plus interest, rather than the treble damages otherwise permitted under the federal antitrust laws.

Drawing upon legislation that was passed by the House some five years ago, the bill would create a minimum of six demonstration projects under which two or more physicians would be permitted to negotiate with health plans free of antitrust restraint. A study of the impact of the negotiations also would be authorized to assist the Attorney General in reviewing the results.

ASA urges introduction of the Bachus-Conyers bill or similar legislation in the House and Senate.

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