



# Department of Justice

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## **JUSTICE DEPARTMENT CONCLUDES JOINT VENTURE OF ANESTHESIA GROUPS IN CALIFORNIA POSES SUBSTANTIAL RISK OF COMPETITIVE HARM**

WASHINGTON, D.C. -- The Justice Department today advised five groups of anesthesiologists based in Orange County, California, that it would not approve their proposal to deal jointly through a single price-setting unit with managed health care plans since it would likely result in higher health care costs without any countervailing procompetitive benefits.

The Department's position was stated in a business review letter from Anne K. Bingaman, Assistant Attorney General in charge of the Antitrust Division, to counsel for Orange Los Angeles Medical Group Inc.

"This proposal would have significantly reduced the number of anesthesia groups available to meet the needs of major hospitals and price-sensitive managed care plans in Orange County," said Bingaman.

The Department determined that in Orange County, the relevant service area for analyzing the proposal, there is only one other integrated hospital-based anesthesia group that is a reasonable alternative to the five Orange Los Angeles Medical Groups for the hospitals currently using those groups' anesthesiology services. Thus, the formation of Orange Los Angeles Medical Group would have reduced from six to two the number of competitors able to serve local hospitals seeking high-quality group anesthesia services. It also would have deprived price-sensitive customers--primary provider organizations and managed-care health plans--of the ability to seek more competitive anesthesiology prices by redirecting their enrollees among the six major Orange County hospitals served by the groups that had planned to form Orange Los Angeles Medical Group.

Bingaman pointed out that the Department strongly supports the formation of physician-controlled groups when they are structured in a way that cuts costs or improves patient care.

"We have issued favorable business review letters to many proposed physician joint ventures, and will continue to do so, but this proposal poses the threat of higher prices for health care while not offering cost savings or other efficiencies," said Bingaman.

Among the many business review letters in the health care area issued by the Department in the last two years, 13 involved physician networks of some kind. Only one other letter has been negative.

Each of the five groups proposing to deal collectively with buyers is a large, financially integrated, hospital-based medical practice. Each is the exclusive or dominant supplier of anesthesia services at the hospitals it serves. The proposal stated that each of the five groups would have continued to do business independently with uninsured patients and with patients covered by traditional indemnity insurance. All five groups, however, would have negotiated with managed-care plans exclusively through Orange Los Angeles Medical Group, offering buyers a unified price schedule.

The Department learned that each of the hospitals currently served by an anesthesia group planning to join Orange Los Angeles Medical Group would strongly resist replacement of its present anesthesia group with an open staff system, with another group that lacked adequate medical or management experience, or with a group that did not enjoy the confidence of the hospital's surgeons.

The Department also concluded that new anesthesia groups were unlikely to enter the area in numbers adequate to offset the substantial reduction in competition that would be caused by the formation of Orange Los Angeles Medical Group.

Under the Department's business review procedure, a person or organization may submit a proposed action to the Antitrust Division and receive a statement as to whether the Division will challenge the action under the antitrust laws.

A file containing the business review request and the Department's response may be examined in the Legal Procedure Unit of the Antitrust Division, Room 215 North, Liberty Place, Washington, D.C. 20530. After a 30-day waiting period, the documents supporting the business review will be added to the file.

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