



DEPARTMENT OF JUSTICE
Antitrust Division

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Donald A. Farmer, Jr., Esquire
Popham Haik Schnobrich & Kaufman, Ltd.
Metropolitan Square Building
655 Fifteenth Street, N.W.
Suite 800
Washington, D.C. 20005

Dear Mr. Farmer:

This letter responds to your request on behalf of AdviNet, Inc., pursuant to the Department of Justice's Business Review Procedure, 28 C.F.R. § 50.6, concerning AdviNet's plan to provide a package of information and services to consumers seeking to select providers of nursing home and other subacute care health services. For the reasons set forth below, the Department of Justice has no present intention of challenging under the antitrust laws AdviNet's proposed operations as described in your request.

AdviNet is a wholly-owned subsidiary of Beverly Enterprises, Inc. ("Beverly"), the nation's largest provider of long-term care services, operating over seven hundred nursing facilities in 34 states. Beverly's experience in providing information and counseling on selection of long-term care facilities has led it to conclude that there is a consumer need for a conveniently accessible network to provide organized, reliable information about long-term care alternatives nationwide.

We understand that AdviNet will contract with employee health and benefit plans, insurance plans, groups and associations to provide its services to group or plan members on a monthly or annual fee basis, and directly to individuals on a fee-for-service basis.

Customers can access AdviNet's information, referral and care-tracking services through a toll-free telephone number. AdviNet's customer service representatives, who will be registered nurses, will ascertain a customer's need for a nursing home or other long-term care facility, and the appropriate geographic area, and supply information from AdviNet's database on facilities in that area.

Customer service representatives will have access to a database containing basic information, such as name, address, phone number and capacity on all licensed nursing homes and related health care facilities in every section of the country, with a display arranged by zip codes, and then alphabetically. This basic information will be available to any customer upon request.

To make the service more useful to customers, AdviNet intends to offer nursing home operators nationwide an opportunity to list more detailed information concerning facilities and services in the AdviNet database by becoming a "participating provider." A provider can become a "participating provider" by meeting certain objective criteria relating to quality assurance, compliance with health and safety

requirements as demonstrated by performance in government inspections, suitable insurance and solvency. Participating providers must agree to periodic on-site inspection, by Advinet and to monitoring to ensure maintenance of standards of care in their facilities.

Participating providers will pay no fee to Advinet. Advinet will derive its revenues solely from customer contracts. Advinet will recommend, but not require, that participating providers offer a discount off basic charges, which can be included in Advinet database information. The amount of any such discount, or whether to grant one at all, is in the discretion of the provider, and not a condition of participation.

In addition to providing information about nursing or other facilities in a geographic area, Advinet will recommend, and assist in scheduling, site visits by Advinet customers. It will provide the customer with suggestions on what to look for and what to ask during the site visit. The Advinet list provided to a customer will not be limited to participating providers, and Advinet will not recommend to the customer any facility over others listed.

Based upon the materials and information you have provided, and our own independent investigation, it appears that Advinet has anticipated and effectively addressed potential antitrust concerns about its program. Although Advinet is a wholly-owned subsidiary of Beverly, it will operate in a different office building, and its computer system will be separate and independent from Beverly's. Advinet's staff will not be employed by Beverly, and their compensation will not depend in any way upon selection of Beverly facilities by Advinet customers.

Advinet has taken steps to ensure that such specific price information as may be given to Advinet by a participating provider will not be made available to any other provider, including Beverly. You have represented that the only pricing information available to participating providers will be an aggregate of the overall number of subscribers using Advinet and the aggregate amount of savings to subscribers due to Advinet customer discounts. This information appears to be appropriate for measuring the performance of the network, and should not facilitate collusion among competing providers.

Finally, although initial marketing efforts have focused upon chain nursing home operators, in order to develop nationwide coverage as expeditiously as possible, Advinet has developed plans to aggressively publicize the advantages of becoming a participating provider to all long-term care providers through trade press and direct mailings. Advinet has also planned to make participation available to any willing and qualified provider promptly for the remainder of calendar year 1995.

Potential customers have told us that there is no information source currently available comparable to the proposed Advinet service. It appears to have the potential to benefit competition by promoting more informed consumer choice. For these reasons, the Department of Justice has no present intention to challenge the proposed Advinet network.

In accordance with our normal practice, however, the Department remains free to bring whatever action or proceeding it subsequently comes to believe is required by the public interest, if the proposed network proves to be anticompetitive in purpose or effect.

This statement is made in accordance with the Department of Justice Business Review Procedure, 28 C.F.R. § 50.6, a copy of which is enclosed. Pursuant to its terms, your business review request and this letter will be made publicly available immediately. In addition, any supporting data that you have not

identified as confidential business information under paragraph 10(c) of the Business Review Procedure also will be made publicly available.

Sincerely,

/s/

Anne K. Bingaman
Assistant Attorney General