



THE CHAIRMAN

FEDERAL TRADE COMMISSION

WASHINGTON, D.C. 20580

May 16, 2011

The Honorable Daniel K. Inouye
United States Senate
Washington, DC 20510

Dear Senator Inouye:

Thank you for the letter and enclosures from you and your colleagues in the Senate and the House of Representatives urging the Federal Trade Commission to review the recommendations in the Institute of Medicine's (IOM) recent report, *The Future of Nursing: Leading Change, Advancing Health*. As you point out, the IOM has recommended that the FTC review current and proposed state regulations and, where appropriate, urge the removal of unnecessary scope-of-practice barriers on Advanced Practice Registered Nurses (APRNs). As you also note in your letter, health care competition is critical to the economy and consumer welfare, and protecting American consumers from anticompetitive restraints in the health care sector has long been, and continues to be, one of the Commission's most important responsibilities. As discussed below in more detail, we are pleased to report that addressing unnecessary and anticompetitive scope-of-practice barriers, as the IOM recommends, is and will continue to be, a central part of our ongoing competition advocacy program.

The Commission remains dedicated to protecting consumers. In addition to our wide-ranging law enforcement and research activities in the health care industry,¹ the FTC maintains an active advocacy program designed to urge state legislatures and regulatory boards to remove anticompetitive restraints.² On May 11, 2011, for example, the Commission authorized the Commission staff to submit a letter urging the Texas Legislature to pass legislation that would remove unnecessary physician supervision and delegation requirements imposed on APRNs. The staff comment explained that Texas health care consumers are likely to benefit from such legislation for several reasons,

¹ See generally FED. TR. COMM'N, *FTC ANTITRUST ACTIONS IN HEALTH CARE SERVICES AND PRODUCTS* (Sept. 2010), available at <http://www.ftc.gov/bc/110120hcupdate.pdf>; Fed. Tr. Comm'n Website, *Competition in the Health Care Marketplace*, available at <http://www.ftc.gov/bc/healthcare/antitrust/index.htm>.

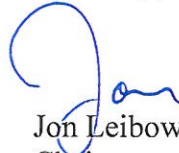
² A complete list of FTC advocacies, including health care as well as non-health care issues, is available at http://www.ftc.gov/opp/advocacy_date.shtm. Advocacy by the Commission and its staff may comprise letters or comments addressing specific policy issues, testimony before legislative or regulatory bodies, amicus briefs, or reports.

including lower health care costs, greater access to care, and more choice among settings where health care is provided. The FTC staff comment cited the recent IOM report.³

The Texas letter is the latest in a series of similar FTC advocacy efforts. Our policy is to respond to requests from state legislators or regulators for FTC staff analysis of proposed regulations and legislation, and there already are several such requests in the advocacy pipeline. The Commission recently authorized the Commission staff to submit letters to several other state regulatory boards and legislatures, urging them to eliminate restrictions or avoid adopting new restraints on the scope of APRNs' practice.⁴ Staff stands ready to submit additional comments concerning APRN scope-of-practice issues in the near future. Staff also maintains an active outreach program to educate interested stakeholders, such as nursing organizations, about our advocacy efforts and our policy of responding to formal invitations for comment. The agency will continue these open communications to help us stay apprised of relevant legislative or regulatory activity, which should generate even more advocacy opportunities.

We appreciate your having brought the IOM report and its recommendations to our attention. Consumer access to quality health care at affordable prices is critically important, and your ongoing vigilance is greatly appreciated. Your letter has been forwarded to the Commissioners and to appropriate members of the Commission staff. Please feel free to contact me with any additional questions or concerns on this or any other topic.

Sincerely,



Jon Leibowitz
Chairman

Enclosure

³ Letter from FTC staff to Hon. Rodney Ellis and Hon. Royce West, Texas State Senate (May 11, 2011) (urging the Texas Legislature to eliminate restrictions on the scope of practice by APRNs that keep APRNs from practicing to the full extent of their training). A copy of this letter is enclosed for your information.

⁴ *See, e.g.*, Letter from FTC Staff to Hon. Daphne Campbell, Florida House of Representatives (Mar. 22, 2011) (regarding proposed legislation to eliminate certain restraints on the scope of practice of Advanced Registered Nurse Practitioners), *available at* <http://www.ftc.gov/os/2011/03/V110004campbell-florida.pdf>; FTC Staff Comment Before the Alabama State Board of Medical Examiners Concerning the Proposed Regulation of Interventional Pain Management Services (Nov. 3, 2010) (regarding restrictions on the scope of practice of certified registered nurse anesthetists, a specialized sub-category of APRNs), *available at* <http://www.ftc.gov/os/2010/11/101109alabamabrdme.pdf>; Letter from FTC Staff to Kentucky Cabinet for Health and Family Services (Jan. 28, 2010) (regarding restrictions on the scope of practice for nurse practitioners, and others, that would have applied in Limited Service Clinics but not in other limited care settings, such as urgent care centers), *available at* <http://www.ftc.gov/os/2010/02/100202kycomment.pdf>.