

Antitrust Division Announces Task Force on Health Care Monopolies and Collusion

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On May 9, Assistant Attorney General (AG) Jonathan Kanter [announced](#) that Department of Justice's (DOJ) Antitrust Division has formed a Task Force on Healthcare Monopolies and Collusion (HCMC). The initiative will bring together civil and criminal prosecutors, economists, health care industry experts, technologists, data scientists, investigators, and policy advisors to identify and address risks to competition in health care, including increased consolidation and coordination of providers and insurers, higher rates, medical billing, quality of care, suppression of wages and labor mobility, IT services, and misuse of health data.

The creation of the task force was guided by three principles:

- 1. Health care has changed and needs to be recognized as a multisided platform:** The DOJ characterized health care companies as “multisided giants” and intermediaries that are no longer focused a single line of business, and instead comprise coordinated stacks of businesses, including insurers, providers, PBMs, banks, and claims processors. Kanter stated that health care companies are accumulating assets at an alarming pace and becoming “gatekeepers” of the health care system.
- 2. Government agencies need to coordinate to police the health care industry:** The DOJ emphasized the importance of interagency coordination of efforts and use of all available tools, including antitrust, criminal, and economics.
- 3. Making change requires strong policies and antitrust enforcement:** HCMC will advocate for robust policies that target antitrust enforcement and collaboration across government agencies.

In an [interview with the *Washington Post*](#), Kanter explained that the creation of the HCMC shows that the DOJ is “upping [its] game” in the health care sector. He expressed particular concern with “choke point” or “gatekeeper” companies, which create platforms that can control access to critical services or resources. Kanter explained that such companies not only create risks to consumers in the form of higher prices, but also privacy and national security risks. He noted that dominant firms can create “a resiliency risk,” with so much data and so much of our health care decision-making in the hands of a single company with incentives to “put profits ahead of people.”

Specific examples of conduct HCMC will target in health care include consolidation, wage-fixing, price-fixing, lack of transparency in health care costs or health information, anti-steering clauses, exclusivity clauses, generic drug

delay tactics, anticompetitive use of health data, and unnecessary provider recertification or accreditation requirements.

The HCMC will be led by Katrina Rouse, who has served in the Antitrust Division since 2011 and recently as a trial attorney in its Healthcare and Consumer Products Section. This initiative is part of the Biden administration's broader efforts to enforce competition laws in the health care industry and lower health care costs. This includes a recent [White House event in April 2024](#) aimed at lowering health care costs for Americans, and a [White House statement in December 2023](#) outlining the administration's actions to lower health care and prescription drug costs by promoting competition. The announcement also comes at a time when the industry is eagerly awaiting the results of the [Federal Trade Commission's separate § 6\(b\) inquiries into pharmacy benefit managers, physician consolidation, and certificates of public advantage](#).

Troutman Pepper's Antitrust and Health Sciences attorneys will be closely following the HCMC and how it might affect our clients in and related to health care.

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