

## U.S. Investigates Health Network for Possible Antitrust Violations

A large healthcare system provider and three large health insurers doing business in Massachusetts, have until May 19, 2010 to respond to inquiries by the U.S. Department of Justice (DOJ) regarding potential anticompetitive behavior in the Eastern Massachusetts healthcare market.<sup>1</sup> The inquiry, related to Partners Healthcare System Inc. (Partners), Blue Cross Blue Shield of Massachusetts, Tufts Health Plan and Harvard Pilgrim Health Care, follows the release of a March 16, 2010 report published by Massachusetts Attorney General Martha Coakley, indicating that health insurance premium costs increased mainly due to increases in prices negotiated with healthcare providers for services, where the highest-paid practices and hospitals by major insurers were paid approximately twice as much as the lowest-paid providers for the same services.<sup>2</sup> The report further found that price variations for healthcare services in Massachusetts are correlated to the relative market leverage a provider has within a specified geographic region.<sup>3</sup>

The Boston Globe reported that the DOJ was investigating whether Partners' health insurance plan negotiation practices violated the Sherman Antitrust Act, which prohibits companies from using market power to manipulate prices for goods or services.<sup>4</sup> Partners, founded in 1994 by Brigham and Women's Hospital and Massachusetts General Hospital, operates as an integrated health system, including primary and specialty care physicians; community hospitals; specialty facilities; and, other health related entities.<sup>5</sup>

As of April 1, 2010, Massachusetts has placed a premium cap on what can be charged by insurer to individuals and small company members.<sup>6</sup> Additionally, Massachusetts state law requires insurance plans to accept applicants without regard to health status.

Demand by insurance plan members for Partners affiliated hospitals is high due to the name recognition and the Harvard-affiliated physicians in its network.<sup>7</sup> Hospital executives have argued that insurance plans have held down the rates for services for years while the

cost of providing care has grown and that<sup>8</sup> the prices demanded in the current market simply reflect the costs that hospitals have absorbed in providing care that now require higher reimbursements.<sup>9</sup>

<sup>1</sup> "US Investigates Partners' Contracts" By Robert Weisman and Liz Kowalczyk, Boston Globe, April 29, 2010, [www.boston.com/business/healthcare/articles/2010/04/29/justice\\_department\\_launches\\_antitrust\\_review\\_of\\_partners\\_healthcare?mode=PF](http://www.boston.com/business/healthcare/articles/2010/04/29/justice_department_launches_antitrust_review_of_partners_healthcare?mode=PF) (accessed May 3, 2010).

<sup>2</sup> "Examination of Health Care Cost Trends and Cost Drivers" By Office of Attorney General Martha Coakley, Report for Annual Public Hearing, March 16, 2010, [http://www.mass.gov/Cago/docs/healthcare/final\\_report\\_w\\_cover\\_appendices\\_glossary.pdf](http://www.mass.gov/Cago/docs/healthcare/final_report_w_cover_appendices_glossary.pdf) (accessed May 3, 2010); "US Probes Boston Hospital Chain" By Avery Johnson and Suzanne Sataline, Wall Street Journal, April 29, 2010, <http://online.wsj.com/article/SB10001424052748703572504575214582360443938.html> (Accessed May 4, 2010).

<sup>3</sup> "Examination of Health Care Cost Trends and Cost Drivers" By Office of Attorney General Martha Coakley, Report for Annual Public Hearing, March 16, 2010, [http://www.mass.gov/Cago/docs/healthcare/final\\_report\\_w\\_cover\\_appendices\\_glossary.pdf](http://www.mass.gov/Cago/docs/healthcare/final_report_w_cover_appendices_glossary.pdf) (accessed May 3, 2010).

<sup>4</sup> "US Investigates Partners' Contracts" By Robert Weisman and Liz Kowalczyk, Boston Globe, April 29, 2010, [www.boston.com/business/healthcare/articles/2010/04/29/justice\\_department\\_launches\\_antitrust\\_review\\_of\\_partners\\_healthcare?mode=PF](http://www.boston.com/business/healthcare/articles/2010/04/29/justice_department_launches_antitrust_review_of_partners_healthcare?mode=PF) (accessed May 3, 2010).

<sup>5</sup> "What is Partners?", Partners Healthcare, [http://www.partners.org/about/about\\_what.html](http://www.partners.org/about/about_what.html) (Accessed May 4, 2010).

<sup>6</sup> "US Investigates Partners' Contracts" By Robert Weisman and Liz Kowalczyk, Boston Globe, April 29, 2010, [www.boston.com/business/healthcare/articles/2010/04/29/justice\\_department\\_launches\\_antitrust\\_review\\_of\\_partners\\_healthcare?mode=PF](http://www.boston.com/business/healthcare/articles/2010/04/29/justice_department_launches_antitrust_review_of_partners_healthcare?mode=PF) (accessed May 3, 2010).

<sup>7</sup> "US Probes Boston Hospital Chain" By Avery Johnson and Suzanne Sataline, Wall Street Journal, April 29, 2010, <http://online.wsj.com/article/SB10001424052748703572504575214582360443938.html> (Accessed May 4, 2010).

<sup>8</sup> "US Probes Boston Hospital Chain" By Avery Johnson and Suzanne Sataline, Wall Street Journal, April 29, 2010, <http://online.wsj.com/article/SB10001424052748703572504575214582360443938.html> (Accessed May 4, 2010).

<sup>9</sup> "US Probes Boston Hospital Chain" By Avery Johnson and Suzanne Sataline, Wall Street Journal, April 29, 2010, <http://online.wsj.com/article/SB10001424052748703572504575214582360443938.html> (Accessed May 4, 2010).



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**Robert James Cimasi**, MHA ASA, CBA, AVA, CM&AA, President. Mr. Cimasi is a nationally recognized healthcare industry expert, with over 25 years experience in serving clients, in 49 states, with a professional focus on the financial and economic aspects of healthcare industry including: valuation consulting; litigation support & expert testimony; business intermediary and capital formation services; certificate-of-need and other regulatory and policy planning; and, healthcare industry transactions, joint ventures, mergers and divestitures.

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