

104TH CONGRESS
2D SESSION

H. R. 3770

To make the antitrust laws inapplicable to the negotiations between a coalition of health-care professionals and a health-care service plan regarding the wages, rates of pay, hours of work, and other terms and conditions of a contract between a member of such health-care professionals coalition and a health-care service plan, and to their carrying out such terms and conditions.

IN THE HOUSE OF REPRESENTATIVES

JULY 10, 1996

Mr. CAMPBELL introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To make the antitrust laws inapplicable to the negotiations between a coalition of health-care professionals and a health-care service plan regarding the wages, rates of pay, hours of work, and other terms and conditions of a contract between a member of such health-care professionals coalition and a health-care service plan, and to their carrying out such terms and conditions.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Health-Care Profes-
3 sionals Coalition Act of 1996”.

4 **SEC. 2. DEFINITIONS.**

5 For purposes of this Act—

6 (1) the term “antitrust laws” has the meaning
7 given to it in subsection (a) of the first section of
8 the Clayton Act (15 U.S.C. 12(a)), except that such
9 term includes section 5 of the Federal Trade Com-
10 mission Act (15 U.S.C. 45) to the extent that sec-
11 tion 5 applies to unfair methods of competition,

12 (2) the term “presumption of market power”
13 shall be defined as a “Herfindahl-Hirschman Index
14 (‘HHI’)” of greater than 2,000,

15 (3) the term “health-care professional” means
16 an individual who—

17 (A) is engaged in the delivery of health-
18 care services in a State,

19 (B) is required by State law or State regu-
20 lation to be licensed or certified by the State to
21 engage in the delivery of health-care services in
22 the State, and

23 (C) has a valid license or certification from
24 the State to engage in the delivery of health-
25 care services in the State,

1 (4) the term “health-care professionals coali-
2 tion” means an organization or association whose
3 membership consists exclusively of health-care pro-
4 fessionals or health-care professionals groups, or
5 both,

6 (5) the term “health-care professionals group”
7 means a group of health-care professionals that is le-
8 gally organized as a partnership, corporation, foun-
9 dation, nonprofit corporation, faculty practice plan,
10 or similar association,

11 (6) the term “health-care service plan” means
12 a person or governmental entity that agrees to pay
13 (directly or by reimbursement) any part of the cost
14 for health-care services provided to recipients of
15 such services, in return for a prepaid or periodic
16 payment made by or for the benefit of such recipi-
17 ents,

18 (7) the term “home health agency” has the
19 meaning given to it in section 1395x(o) of the Social
20 Security Act (42 U.S.C. 1395x(o)),

21 (8) the term “hospice program” has the mean-
22 ing given to it in section 1395x(dd)(2) of the Social
23 Security Act (42 U.S.C. 1395(dd)(2)),

1 (9) the term “hospital” has the meaning given
2 to it in section 1395x(e) of the Social Security Act
3 (42 U.S.C. 1395x(e)),

4 (10) the term “person” has the meaning given
5 it in subsection (a) of the first section of the Clayton
6 Act (15 U.S.C. 12(a)), and

7 (11) the term “skilled nursing facility” has the
8 meaning given to it in section 1395i(3)(A) of the So-
9 cial Security Act (42 U.S.C. 1395i(3)(A)).

10 **SEC. 3. PURPOSE.**

11 The purpose of this Act is to create a more equal
12 balance of negotiating power between health-care profes-
13 sionals and health-care service plans.

14 **SEC. 4. APPLICATION OF ANTITRUST LAWS TO HEALTH-**
15 **CARE PROFESSIONALS COALITIONS.**

16 (a) EXEMPTION.—Subject to subsection (b), it shall
17 not be unlawful under the antitrust laws for a health-care
18 professionals coalition—

19 (1) to negotiate with a health-care service plan
20 regarding the wages, rates of pay, hours of work,
21 and other terms and conditions of a contract that
22 require members of the coalition to provide health-
23 care services to beneficiaries of the plan, or

24 (2) to carry out such terms and conditions.

1 (b) LIMITATION ON EXEMPTION.—The exemption es-
2 tablished in subsection (a) shall apply only to a line of
3 service—

4 (1) of health-care professionals and health care
5 professionals groups who are members of a health-
6 care professionals coalition, and

7 (2) with respect to which there is in the rel-
8 evant market a presumption of market power held
9 by health-care service plans with which the coalition
10 negotiates terms and conditions described in such
11 subsection.

12 **SEC. 5. EFFECTIVE DATE.**

13 This Act shall take effect on the date of the enact-
14 ment of this Act, but shall not apply with respect to con-
15 duct occurring before such date.

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