

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Office of Policy Planning
Bureau of Economics
Bureau of Competition

May 22, 2009

Hon. Sam Jones
State Representative - District 50
Louisiana House of Representatives
900 Third Street
Baton Rouge, LA 70804

Re: Amendments to Louisiana House Bill 687

Dear Representative Jones:

House Bill 687 will restrict competition among dentists and does not appear to provide any countervailing benefits to consumers. Further, the recent bill amendments appear to exacerbate the competition concerns by restricting the market only to present incumbents id(enonm.7(a4e0rsta)1(de[byntiraitp3(t bill am)J-1Bonly3(t bill am)Jnny counteeeri)0ems5.52 regulating and potentially raising their rivals' operating costs in the Louisiana dental ("HB 687," "the Bill" or "the proposed legislation"). We understand that after we

Hon. Sam Jones
May 22, 2009
Page 2 of 5

Trade Commission's Office of Policy Planning, Bureau of Economics, and Bureau of

Hon. Sam Jones

May 22, 2009

Page 3 of 5

sealants) are children attending non-restricted schools where those services are already provided.

Further, paragraph (4) gives responsibility to the Louisiana State Board of Dentistry to decide whether or not an area is in fact “underserved.” It is our understanding that the Louisiana State Board of Dentistry is a body composed primarily (though not exclusively) of dentists. The Bill thus mandates that, prior to authorizing in-school dental services, competitors on the Louisiana Board of Dentistry must first determine, and then rely on, existing levels of

Because the Nowlin Amendment appears to allow all dentists anywhere in Louisiana to examine the records of any patient who receives in-school dental services, regardless of who provided such services and under what circumstances, the amendment raises privacy concerns with respect to these types of health care records.

In addition, this provision of the Nowlin Amendment could allow dentists throughout Louisiana to raise the operating costs of their competitors who provide in-school dental care. Requiring in-school providers to prepare, copy, and deliver medical records within 72 hours of any request by any dentist, and bear the cost of such, could raise the costs of providing such in-school services. Further, such a provision may invite collusion among licensed dentists insofar as developing a scheme, tacit or otherwise, that would punish rival dentists who provide in-school services. Indeed, such activity if undertaken by dentists individually or collectively, could be in violation of the Sherman Act, 15 U.S.C. §1 and §2, and the FTC Act, 15 U.S.C. §45, et seq., both of which prohibit attempts to monopolize and engage in unfair trade practices.

We recognize that the Nowlin Amendment could prevent duplication of services by requiring transparency through access to records, and that some may have concerns about patients becoming locked-in to a dentist providing services for free at a school if records cannot be accessed by other dentists. However, that concern could be addressed in a less anticompetitive way by requiring the release of the patient's records at the request of the patient and allowing a nominal charge for duplication and processing.

We appreciate your consideration of these issues.

Respectfully submitted, c0 Tw()TjT(*)1.15icatio5N(d).9

Hon. Sam Jones
May 22, 2009
Page 5 of 5

Pauline Ippolito
Acting Director
Bureau of Economics