

May 18, 2016

Hon. Jose L. Báez Rivera  
Cámara de Representantes  
El Capitolio  
Apartado 9022228  
San Juan, Puerto Rico 00902-2228

Dear Representative Báez Rivera:

health care consumers and other payors. For this reason, we generally have encouraged legislatures to avoid restrictions that are not necessary to address well-founded patient safety concerns.<sup>4</sup> We write now to highlight the potential competitive benefits of loosening the prohibitions on Puerto Rican optometrists using or prescribing medications for treatment and diagnosis and to encourage the legislature to consider the procompetitive implications of expanding the scope-of-practice of optometrists in its consideration of the Bill.<sup>5</sup>

## **I. The Agencies' Interest and Experience in Health Care Competition**

Competition is a core organizing principle of America's economy,<sup>6</sup> and vigorous competition among sellers in an open marketplace gives consumers the benefits of lower prices, higher quality goods and services, increased access to goods and services, and greater innovation.<sup>7</sup> The FTC and the Division (the "Agencies") work to promote competition through shared enforcement of the antitrust laws, which prohibit certain transactions and business practices that harm competition and consumers, and through competition advocacy efforts, which urge decisions that benefit competition and consumers, whether through comments on legislation, discussions with regulators, or court filings, among other channels.

---

<sup>4</sup> For example, the FTC staff's 2014 policy paper on regulation of advanced practice nurses details the competition concerns with unnecessarily restrictive scope-of-practice regulations and highlights the importance of independent prescription authority. See FED. TRADE COMM'N STAFF, POLICY PERSPECTIVES: COMPETITION AND THE REGULATION OF ADVANCED PRACTICE NURSES (2014), <http://www.ftc.gov/system/files/documents/reports/policy-perspectives-competition-regulation-advanced-practice-nurses/140307aprnpolicypaper.pdf>.

<sup>5</sup> We confine our comments to the Bill's proposed expansion of the authority of optometrists to use and prescribe medications and its competitive effects.

<sup>6</sup> See, e.g., *N.C. State Bd. of Dental Exam'rs v. FTC*, 135 S. Ct. 1101, 1109 (2015) ("Federal antitrust law is a central safeguard for the Nation's free market structures."); *Standard Oil Co. v. FTC*, 340 U.S. 231, 248 (1951) ("The heart of our national economic policy long has been faith in the value of competition.").

<sup>7</sup> See, e.g., *Nat'l Soc'y of Prof'l Eng'rs v. United States*



medications, to diagnose, treat, mitigate, and manage diseases of the eye.<sup>12</sup> No optometrists would be allowed to perform surgery.<sup>13</sup>

We also understand that,

could facilitate. Under current law unique to Puerto Rico, optometrists are broadly restricted from using or prescribing pharmacological agents for treatment and diagnosis.<sup>16</sup> Restrictions on optometrists' ability to use and prescribe pharmacological agents reduces t



