The Importance of Clinical Integration to Provider Networks Under the Affordable Care Act

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ABSTRACT: The emergence of clinically integrated provider networks and new structures such as Accountable Care Organizations (ACOs) is accelerating under the Affordable Care Act. These organizations seek to improve care quality and lower costs, but can raise antitrust issues if not structured and managed carefully. A threshold issue is whether their structure will permit participating providers to negotiate jointly with payers. Provider networks and ACOs must be cognizant of antitrust issues arising from the exercise of market power, and whether the network or ACO may be structured to attract a market power challenge. The organization must balance the need for sufficient size to serve a patient population effectively with the attendant antitrust risks. The U.S. antitrust enforcement agencies have provided insight into their enforcement philosophies, and a review of enforcement actions provides further guidance for networks seeking to minimize their antitrust risk.

KEYWORDS: Clinical Integration, Clinically Integrated Provider Networks, Accountable Care Organizations, Health Care Reform, Affordable Care Act, Antitrust, Market Power

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