



Department of Justice

WP 79-220

FOR IMMEDIATE RELEASE
FRIDAY, JULY 6, 1979

AT
202-633-2014

The Department of Justice announced today that it does not now intend to oppose on antitrust grounds a proposal by the American Association of Ophthalmology to gather information on the public's perception of eye care services and to disseminate the information to its members.

The Department's position was contained in a business review letter dated July 3, 1979, from its Antitrust Division to the Association.

Donald L. Flexner, Acting Assistant Attorney General in charge of the Antitrust Division, said the Association is composed of ophthalmologists throughout the country.

The Department's letter said the Association's public survey is part of a larger study being done by the American Board of Ophthalmology for the General Accounting Office. That study focuses on the public's perception of differences between and experiences with ophthalmologists and other providers of eye care. The Association will submit its survey results to its members and to the Board of Ophthalmology, which, in turn, will include the results in its report to the General Accounting Office.

(MORE)

Under the business review procedure, a firm or organization may submit a proposed action to the Antitrust Division and receive a statement whether the Division will challenge the proposal under the antitrust laws.

By Departmental regulations, all business review letters are available to the public immediately, and any supporting information is available to the public 30 days from the date of the letter.

A file containing the business review request, the supporting documents, and the Department's response may be examined in the Legal Procedure Unit of the Antitrust Division, United States Department of Justice, Washington, D.C. 20530.

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ASSISTANT ATTORNEY GENERAL
ANTITRUST DIVISION

United States Department of Justice

WASHINGTON, D.C. 20530

3 JUL 1979

Warren E. Magee, Esquire
General Counsel
American Association of
Ophthalmology
1100 17th Street, N.W.
Washington, D.C. 20036

Dear Mr. Magee:

This responds to your letters of April 17, May 11, and May 21, 1979, which request a statement of our present enforcement intention if the American Association of Ophthalmology ["AAO"] participates in a survey of the public's utilization of ophthalmological services and disseminates the survey results to its members.

We understand that your survey is part of a larger study of ophthalmological services being conducted by the American Board of Ophthalmology ["ABO"] for the General Accounting Office. You have drafted a questionnaire which will be submitted to selected polling organizations for use in a nationwide public survey. The questionnaire concerns such matters as the public's perception of the difference between ophthalmologists and other providers of eye care, its preference for one over the others, its opinion whether there are excess ophthalmologists, its time spent waiting for an appointment with an ophthalmologist, and the frequency of utilization of ophthalmologists and other eye care providers. The survey organizations will submit their results to AAO, which will transmit them to ABO for inclusion in its report to the General Accounting Office and disseminate them to AAO members.

Based on information submitted to us by you, we have no present intention to challenge your proposal under the anti-trust laws.

Our statement of present enforcement intention is made in accordance with the Department's Business Review Procedure, 28 C.F.R. 50.6 Pursuant to its terms, your business review request and this letter will be available to the public immediately, and any supporting data will be available to the public within thirty days from the date of this letter.

Sincerely yours,

Donald L. Flexner

Donald L. Flexner
Acting Assistant Attorney General
Antitrust Division

AMERICAN ASSOCIATION OF OPHTHALMOLOGY



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Mr. Seville - 3417
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M/1/85

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April 17, 1979

The Honorable Griffin B. Bell
 Attorney General
 Washington, D. C. 20530

Dear Mr. Attorney General:

Please be advised that a request has been received by the American Board of Ophthalmology for information concerning eye care and vision services from the General Accounting Office (GAO). A copy of the letter request from the General Accounting Office is enclosed.

The American Association of Ophthalmology (AAO) has been asked to have a survey conducted by an outside organization like the Gallup or Harris organizations in order to obtain some of the requested data for ultimate forwarding to the GAO concerning ophthalmological services. This survey, if proper, will be funded by the AAO.

Accordingly, Survey Questions Concerning Ophthalmological Services have been prepared by the AAO to be submitted to the selected polling organization for use in conducting such a survey nation wide.

Representatives of the Antitrust Division of the Department of Justice have issued public statements that surveys in medical care areas have antitrust implications even if requested by a federal government agency like the GAO.

Under these circumstances enclosed is a copy of Survey Questions Concerning Ophthalmological Services, which the AAO proposes to use to obtain such requested data as outlined in this letter.

It is respectfully requested that you review the enclosed survey questions and advise whether their use as, described herein, has any improper antitrust implications to the AAO.

The AAO also would appreciate advice as to whether any restrictions are to be imposed on the publication or other use of this survey material when it is received by the AAO other than the forwarding thereof to the GAO.

Your prompt reply to this letter will be appreciated.

Sincerely yours,

Warren E. Magee
 WARREN E. MAGEE
 General Counsel

6-21-80 *Mc*

DEPARTMENT OF JUSTICE		R E C O R D
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R.A.G.		



UNITED STATES GENERAL ACCOUNTING OFFICE
REGIONAL OFFICE
SUITE 320-D, 700 W. 36TH AVENUE
DENVER, COLORADO 80217

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Am. Bd. of
Ophthalmology

JAN 9 1975

Francis H. Adler, M. D.
Secretary-Treasurer
American Board of Ophthalmology
8870 Towanda Street
Philadelphia, Pennsylvania 19108

Dear Dr. Adler:

The United States General Accounting Office, an agency of the legislative branch of Government, is engaged in a study relating to the number of physicians needed in each specialty to serve the public. As you were advised in Dr. Nussaker's August 18 memorandum, we are interested in obtaining the views of the board on a number of important matters in this area.

During the 1960's and 1970's there has been a significant increase in the supply of physicians. This growth, however, has not been uniform among the specialties. As a result, there has been a sharp decrease in the number of primary care physicians and a dramatic increase in the physicians in certain other specialties. Some physician manpower studies suggest that certain non-primary care specialties may be expanding at a rate that may outgrow reasonable needs of the population, and some professional medical associations have become increasingly concerned about the possibilities of oversupply in their specialties. Although opinions differ regarding what constitutes a sufficient number within each specialty, some authorities have nevertheless generally concluded that there may be a surfeit of physicians in certain specialties and a deficit in primary care. Some authorities have also generally concluded that physicians, as a group, are not well distributed geographically and as a result health care services in many areas are inadequate, particularly in rural and inner city areas.

Accordingly, one of the objectives of our study is to determine whether there is an undesirable imbalance among specialists and if

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so, to determine what actions need to be taken by either the medical profession or the Federal Government, or both, to develop an appropriate mix of physicians to meet the health care demands of the U. S. population.

We have discussed this subject with other representatives of the medical profession and with Government officials and have researched it in medical literature. From our meetings and literature search, we have noted the following regarding surgeons.

The American Surgical Association and the American College of Surgeons in a Study of Surgical Services in the United States reported in 1975 that there are about 52,000 board-certified surgeons in practice and 12,000 residents in training. In addition, there were reported to be 20,000 non-certified surgical specialists and 9,000 general practitioners who perform surgery. The study indicates that between 50,000 and 60,000 board-certified surgeons and 10,000 to 12,000 residents would prove sufficient for surgical care in the U. S. for the next 40 to 50 years. The study also showed that the death and retirement rate from a group of 50,000 to 60,000 surgeons is such that certification of 1,600 to 2,000 persons each year would stabilize the surgeon-population ratio.

The number of surgeons the study shows is needed each year to achieve stability in the future has been regularly exceeded in the past. The October 1972 issue of Annals of Surgery showed that an average of about 2,750 surgeons became board-certified annually during the 5-year period 1967-1971. The American Medical Association reported that during 1973, about 3,400 surgeons became board-certified.

The Annals of Surgery article showed that to raise the ratio of ophthalmologists to the desired point (3.09 per 100,000) by 1980 about 750 would need to be certified in the next 5 years. Data reported by the American Medical Association shows that 1191 ophthalmologists were certified in the 4-year period 1970-73 and there were 495 filled first-year residency positions in approved programs in September 1973.

Another study of specialty distribution was completed by the Department of Health, Education, and Welfare in 1975. They projected an optimal ratio of 8.3 ophthalmologists per 100,000 population in 1980 while showing an actual ratio of 5.5 per 100,000 for 1972. Its projections were based on the number of surgeons being trained rather than the number being certified, and included a factor for demands that may occur with the enactment of some form of national health insurance legislation.

Based on the foregoing information, the studies appear to show that the supply of ophthalmologists in the U. S. today is sufficient, and that continuing to train ophthalmologists at past rates will result in an oversupply. However, they do not show the exact size of the oversupply nor do they show what should or could be done to deal with this matter. With all of the foregoing as a frame of reference, it is of particular importance that we obtain the views of the board on the following questions.

- 1) Does the board believe there is an over, under, or sufficient supply of ophthalmologists in the U. S. today? Please outline the reasons it believes this to be so.
- 2) What does the board believe would be a reasonable ratio of ophthalmologists to population? Please explain the basis for the ratio.
- 3) Is this ratio likely to remain the same, increase or decrease, if a national health insurance program is enacted?
- 4) Does the board have a role in determining the adequacy of the supply of surgical specialists in the U. S. and ensuring the training of appropriate numbers of surgeons to meet the demands of the U. S. population? If so, would you please describe this role and action taken in this regard. If not, would you please explain the board's position.
- 5) Has the board conducted any studies on the adequacy of the supply of ophthalmologists in the U. S.? If so, would you briefly summarize its findings and provide us with a copy of any issued reports.
- 6) Does the board have any plans for conducting future studies on this matter? When will these studies be started? Will the studies consider how much time the ophthalmologist spends in providing patient care other than surgery? When will the studies be completed?
- 7) Does the board have a role in determining the adequacy of geographic distribution of ophthalmologists in the U. S.? If so, would you please describe any efforts undertaken, their objectives, when begun and results. If not, would you please explain the board's position.

In addition to these questions, which dealt specifically with ophthalmologists, we would also appreciate your views on the following questions:

1) Does the board believe that more primary care physicians, general practitioners, family practitioners, obstetrician-gynecologists, internists, pediatricians, and fewer other specialists are needed in the U. S. today? Please explain the board's position.

2) Does the board believe that the matter of obtaining an appropriate mix among specialty physicians can best be achieved by free market forces or is this a matter needing more concerted action? Please explain the board's position.

3) Does the board believe that the matter of obtaining a more adequate geographic distribution of physicians can best be achieved by free market forces or is this a matter needing more concerted action? Please explain the board's position.

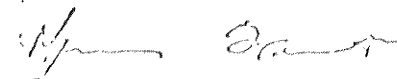
4) Does the board believe the Coordinating Council for Medical Education, or the Liaison Committee for Graduate Medical Education should be responsible for determining the appropriate mix of specialty physicians for the U. S.? Please explain the board's position.

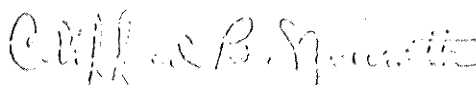
5) If the board believes it would be inappropriate for these organizations to assume this responsibility, who, if anybody, does it believe should fulfill this role? Please explain the board's position.

Finally, we would appreciate any other views on these subjects which the board believes we should consider.

We are requesting similar comments from all physician specialty organizations which are members of the American Board of Medical Specialties and the Council of Medical Specialty Societies, as well as the Residency Review Committees and the Coordinating Council for Medical Education and the Liaison Committee for Graduate Medical Education. Comments received will be analyzed by our staff for use in our final report to the Congress. We thank you for taking the time to respond to us and are certain you share our concern for the importance of the matters discussed. If additional information is desired, please contact the undersigned at 301-443-3539 or 303-837-4521. A self-addressed envelope is enclosed to facilitate your reply.

Sincerely yours,


Murray Grant, M.D. D.P.H.
Medical Consultant


Clifford B. Neuroth
Supervisory Auditor