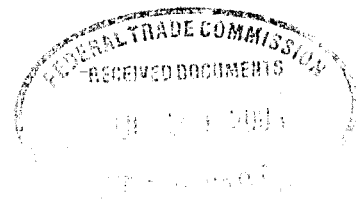


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July 17, 2003

Donald S. Clark
Office of the Secretary
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

RE: Comments Regarding Health Care and Competition Law and Policy

Dear Mr. Clark:

In 2000, approximately \$1.3 trillion or 13.2% of the U.S. gross domestic product (GDP) was spent on medical services, (Plunkett's Health Care Industry Almanac, 2003). Plunkett's estimates that the percentage of the GDP spent on medical care will rise to 14.7% in 2002. Clearly, health care in the U.S. is big business. As a result, there is a growing need for legal protection when healthcare consumers, who are paying for a service, enter into business transactions with physicians, hospitals and other healthcare providers. These protections must include consent based on full disclosure and consent forms that describe specifically what will be done and by whom.

Several months ago, I read an article in my local paper about the widespread practice, in some teaching hospitals, of medical students performing pelvic exams on anesthetized women without their consent. I've recently learned that medical students are also performing rectal exams on unconscious men and women without their knowledge or consent. To say the least, I and many of my friends and family are outraged. How could this happen and be arrogantly sanctioned by hospital leadership? As a law-abiding citizen of this country I know that I cannot hit, spit on, slap or touch another person against their will without opening myself up to charges of assault and battery. And yet, some doctors and medical students feel they can drug until unconscious vulnerable women and men, poke and prod their vaginas and rectums without their consent, and believe they have the right to do so.

Historically, healthcare consumers have been trained to believe that a doctor's ethics and morals ensure that they will be treated with dignity and honesty. The consumer has faith that this code of ethics compels healthcare providers to respect their rights as individuals, the least of which is the basic and most precious right to decide what will be done to their bodies. The truth is that many physicians believe *they* operate under different morals, ethics and laws. So, they make decisions without the consumer's informed consent, sometimes under the guise of being medically necessary, reasonable, educational, etc., believing that this is *their* right.

Additionally, the obscure "general" consent forms consumers are asked to sign are written in a way to deceive or trick the consumer, which is the very definition of fraud. I write from the firsthand experience I had with two doctors who decided to perform a procedure, that I never would have consented to, and that resulted in a permanent physical injury as well as devastating emotional stress.

Unfortunately, consumers cannot always trust that medical personnel will behave ethically and do what is morally right, so it's crucial that there are strict laws and regulations governing informed consent and the consent forms consumers are asked to sign. It's imperative the Federal Trade Commission (FTC) — "whose primary mission is to protect consumers" — ensures that "consumers can make informed choices based on accurate information" and "enforces federal consumer protection laws that prevent fraud, deception and unfair business practices," thus putting the power and control for decisions about their bodies back into the consumer's hands. (Quotes are from FTC Chairman, Timothy J. Muris.)

Sincerely,

Noreen Farrell Nickolas
Noreen Farrell Nickolas

/nfn