Department of Justice

FOR IMMEDIATE RELEASE
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JUSTICE DEPARTMENT WILL NOT CHALLENGE FORMATION OF PLASTIC SURGEON NETWORK IN CONNECTICUT

WASHINGTON, D.C. -- The Department of Justice said today that it would not challenge a proposal by eight Connecticut plastic surgeons to form a network to contract with managed care plans and other third-party payers.

The Department's Antitrust Division said the proposed network, to be called the Plastic Surgery Associates of Connecticut LLC, falls within the safety zone for non-exclusive physician network joint ventures that share significant financial risk, as described in the Statements of Enforcement Policy and Analytical Principles Relating to Health Care and Antitrust. The policy statements were issued jointly by the Department and the FTC in 1994.

The Department also said that the proposed network may provide efficiency-based benefits, including lower prices for plastic surgery services to health care payers and consumers, and foster increased competition in the delivery of plastic surgery services.

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The Department's position was stated in a business review letter from Anne K. Bingaman, Assistant Attorney General for the Antitrust Division, to counsel for the plastic surgeons.

The network would be formed by eight initial members, and would contract through a managing director on behalf of its members using either a discounted fee-for-service or a capitated fee structure. When contracting on a fee-for-service basis, a substantial percentage, probably 20 percent, of fees paid will be withheld and forfeited to payers unless Plastic Surgery Associates meets cost containment goals mutually agreed to by Plastic Surgery Associates and individual payers.

The network intends to create efficiencies through integrated management and claims processing systems, and to bring down plastic surgery costs through implementation of protocols for high volume plastic surgery procedures. Its members will be permitted to contract individually with third-party payers or other health care provider networks in competition with Plastic Surgery Associates.

The network plans to market its services in an area corresponding to those Connecticut towns and cities currently served by its members. Payers agree that there are adequate numbers of other plastic surgeons available as substitutes should Plastic Surgery Associates attempt to raise prices or restrict output of plastic surgery services. Within any reasonably configured geographic market, it appears that Plastic Surgery

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Associates accounts for well under 30 percent of the available plastic surgeons, the Department said.

Under the Department's Business Review Procedure, an organization may submit a proposed course of action to the Antitrust Division and receive a statement as to whether the Division will challenge the activity under the antitrust laws.

A file containing the business review request and the Department's response may be examined in the Legal procedure Unit of the Antitrust Division, Room 215 North, Liberty Place, Department of Justice, Washington, D.C. 20530. After a 30-day waiting period, the documents supporting the business review will be added to the file, unless confidentiality had been requested pursuant to paragraph 10(c) of the Business Review Procedure.

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