



**American Hospital
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By Email and Courier

May 31, 2016

The Honorable Edith Ramirez
Chairwoman
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

The Honorable Maureen Ohlhausen
Commissioner
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

The Honorable Terrell McSweeney
Commissioner
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Commissioners Ramirez, Ohlhausen, and McSweeney:

I am writing to urge the Federal Trade Commission (FTC) to continue any administrative proceedings adjudicating the combination of the Penn State Milton S. Hershey Medical Center (Hershey) and PinnacleHealth System (Pinnacle) until after the Third Circuit Court of Appeals has issued a decision in the matter. As you are well aware, Judge John Jones has already held that the FTC has not shown a likelihood of succeeding on its antitrust claims against Hershey and Pinnacle, and the Third Circuit has expedited the FTC's appeal and tentatively set an argument date for the week of July 25, 2016.

The expeditious resolution of this matter – and other hospital mergers that FTC is or will review – is of concern to the American Hospital Association (AHA) and its members. Indeed, the prospect of having to defend transactions on multiple fronts and at great cost has likely deterred many hospitals and health systems from pursuing lawful and pro-competitive transactions that would benefit the communities and consumers that hospitals serve.



The Honorable Edith Ramirez, Maureen Ohlhausen and Terrell McSweeney

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The AHA strongly supports the Standard Merger and Acquisition Reviews Through Equal Rules (SMARTER) Act, which would align the standards applied to merger challenges brought by the FTC and the Department of Justice, require the FTC to bring those challenges only in federal courts, and facilitate more efficient resolutions of litigation involving hospitals. The FTC's treatment of the proposed combination of Hershey and Pinnacle amply demonstrates the reasons why SMARTER Act reforms are both necessary and urgent. Having lost its case in a federal district court, the FTC should not now re-litigate the case in administrative proceedings at great cost to the hospitals – particularly when the Third Circuit's expedited appeal could resolve the entire matter in a relatively short period of time.

The AHA will continue to urge Members of Congress to lend their support to passing the SMARTER Act, and urges you to continue any administrative proceedings in this matter pending resolution of the Third Circuit appeal.

Sincerely,

/s/

Melinda Reid Hatton
Senior Vice President and General Counsel