

# Highlights to the 2026-1 Edition of Health Care and Antitrust Law

This 2026-1 Edition to Health Care and Antitrust Law includes new and updated case law, government enforcement actions, and compliance guidance, consisting of new content in the following areas:

- Ninth Circuit addresses Sherman Act challenge to Las Vegas hotels that used commercially available software that recommended prices to charge. Although the case does not involve the health care sector, its holding is relevant to issues surrounding pricing in health care. *Gibson v. Cendyn Group, LLC*, 148 F.4th 1069 (9th Cir. 2025) (see § 3:4);
- District Court allows Section 2 Sherman Act claim to proceed at motion to dismiss stage in antitrust lawsuit involving two electronic health records software companies. *Particle Health Inc. v. Epic Systems Corp.*, 2025 WL 2581579 (S.D.N.Y. September 5, 2025) (§ 6:4);
- FTC announces that three individuals have resigned from their positions on the Board of Directors of Sevita Health in response to the FTC's enforcement of the Clayton Act's prohibition of directors and officers from serving simultaneously on the boards of competitors. (§ 7:12);
- FTC and DOJ Antitrust Division release their 47th Annual Hart-Scott-Rodino Report. (§ 8:17; App. D13);
- Sixth Circuit holds that "indirect sellers" cannot sue for antitrust violations in the same way that indirect purchasers are prohibited from doing so. *Academy of Allergy & Asthma in Primary Care v. Amerigroup Tennessee, Inc.*, 155 F.4th 795 (6th Cir. 2025) (§ 11:6);
- District Court sets aside FTC general ban on non-competes. *Ryan, LLC v. Federal Trade Commission*, 746 F.Supp.3d 369 (N.D. TX 2024) (§ 18:4);
- FTC lays out new approach of selective challenges to non-competes under Trump Administration and sends warning letters to health care providers. (§ 18:4); and
- FTC Acting Director of Office of Policy Planning sends letter to South Carolina State Senator expressing

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antitrust concern over proposed legislation increasing restrictions on the practice of Advanced Practice Registered Nurses. (App. D214).