



May 1, 2002

MEDICINE'S MIDDLEMEN

## Senate Panel Criticizes Hospital Buying Groups

By BARRY MEIER and MARY WILLIAMS WALSH

ASHINGTON, April 30 — The business practices of the nation's two biggest groups that negotiate contracts for hospital products were sharply criticized today by lawmakers from both parties who threatened Congressional action if the companies did not reform themselves.

At a hearing here before the antitrust subcommittee of the Senate Judiciary Committee, lawmakers said they were deeply disturbed by reports in The New York Times that decisions made by the two groups in awarding contracts to manufacturers were entangled by conflicts of interest and self-dealing.

"We have heard startling allegations of scandal and conflicts of interest that have infected" these groups, said Herb Kohl, Democrat of Wisconsin. "These practices are appalling and cannot be tolerated."

Top officials of the groups — Premier Inc. and Novation — were criticized on a variety of issues including stockholdings by the group's executives, and the groups themselves, in companies that received contracts. Lawmakers also expressed their concern over sole-source contracts awarded to manufacturers that paid large fees to the buying groups, saying the practice stifled product innovation and threatened patient safety.

Mike DeWine, Republican of Ohio, said he also thought that buying groups, in an apparent drive to reap profits for themselves, had strayed from their basic reason for being — obtaining the best products at low prices for hospitals.

"I am concerned about the extensive range of businesses and programs run" by these groups, he said.

Today's hearing was the first Congressional examination of hospital buying groups since 1986, when Congress granted them special exemptions from federal antikickback laws. That exemption permits the groups to accept money from manufacturers that sell products.

The hearing comes after several articles this year in The Times that have examined the buying groups and their conflicts of interest. Many of the examples cited by lawmakers appeared in those articles.

At the hearing, Richard A. Norling, the chief executive of Premier, and Mark McKenna, the president of Novation, defended the groups' practices, saying that they saved money for hospitals and that hospitals were free to buy whatever products they wanted.

"We are committed to operating openly, honestly and transparently," Mr. Norling said.

Senator Kohl asked the buying groups to work with a small group of product makers and doctors "to create a code of conduct that will address these ethical problems and contracting issues." The groups agreed to the request. He gave them three months to report back to his committee with their ideas.

Senators Kohl and DeWine asked both the Federal Trade Commission and the Department of Justice to open investigations into whether the buying groups had violated federal antitrust guidelines.

Elizabeth H. Weatherman, a managing director of Warburg Pincus, a venture capital firm in New York City, also testified, saying such firms were reluctant to finance new medical technology companies because of the "anticompetitive" business practices of the big buying groups. Ms. Weatherman said "collusion" between the buying groups and large manufacturers kept out the smaller, innovative manufacturers and kept prices high.

"There is no doubt that patients' health has suffered as a result" of these groups' activities, she said.

Premier and Novation negotiate contracts for at least half of the nation's nonprofit hospitals, which accounted last year for about \$34 billion in sales. The groups deny that they hurt product innovation.

For her part, Ms. Weatherman said that the government would not allow such practices in any other business sector and she said she could see no reason it should do so in health care.

"There is no special reason why the health care system should be the only sector of the economy where such practices are tolerated," she said.

Stockholdings by buying group executives in companies that hold contracts came under particular scrutiny by lawmakers.

"I am concerned about recent press reports that senior executives have received or obtained stock or stock options from product suppliers, creating serious conflicts of interest," Orrin Hatch, Republican of Utah, said in a statement released at today's hearing.

Under questioning from Senator Kohl, Mr. McKenna, the Novation official, acknowledged that he held stock in five "medically related" companies, some of which have contracts with his group. He said that while his holdings were small, Novation's

guidelines allow officials to own up to 1 percent of a company's publicly traded stock, an amount that could represent millions of dollars.

Senator Kohl said he had serious concerns about buying group officials holding any stock in a company with which they do business. "Why not just say it's a bad idea?" he asked.

Mr. McKenna replied, "Certainly sir, it is worthy of review."

For his part, Mr. Norling, the Premier executive, said his group was already reviewing its policy on personal stockholdings in medical suppliers. Mr. Norling, who had previously held such stock, said that he personally favored barring such holdings.