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A Persistent Small Supplier Gets Contract for Hospitals

By BARRY MEIER

One of the biggest groups that help hospitals buy equipment said yesterday that it had awarded a contract to the small maker of a potentially life-saving device whose long travails in obtaining such a deal were a subject of a Congressional hearing.

The hospital buying group, Premier Inc., said it had awarded a contract to the Masimo Corporation of Mission Viejo, Calif., the maker of a device called a pulse oximeter, which measures blood oxygen levels. Several doctors said that the Masimo device was superior to existing ones when it was introduced about five years ago, particularly in the care of premature infants who can suffer severe brain or eye damage if improperly monitored.

For several years, however, Premier refused to offer a contract to Masimo despite its own 1999 internal report that found that the company's device "had significant clinical advantages to neonates and some highly critical adult patients." Instead, Premier continued to deal exclusively with the nation's largest maker of pulse oximeters, Nellcor Inc.

Some critics of big buying groups like Premier viewed Masimo's struggle, which was detailed by The New York Times in an article in March, as evidence of how the groups hampered the use of innovative technologies by dealing exclusively with big manufacturers. Unlike other purchasing agents, middlemen like Premier are not paid by the buyers of equipment — in this case, the hospitals — but by manufacturers who pay them sales commissions.

While hospitals can buy from any vendor they choose, those that belong to buying groups lose discounts and other financial incentives if they buy from suppliers that do not have contracts.

In the Times article, Richard A. Norling, the chairman and chief executive of Premier, which represents about one-quarter of the nation's nonprofit hospitals, defended the group's contracting policies.

"We do not know of any company with a truly innovative and market-ready product that does not have a contract with Premier if the company wants one," Mr. Norling said.

Both Premier and the nation's other big buying group, Novation, were attacked in April at a hearing before the antitrust subcommittee of the Senate Judiciary Committee for their apparent refusal to sign contracts with small companies like Masimo. The chairman and

chief executive of Masimo, Joe E. Kiani, also denounced the treatment of his company by both Premier and Novation, which also has an exclusive agreement with Nellcor.

"Masimo's story is just one example of a systematic problem that excludes competition and blocks innovative products in favor of the status quo," Mr. Kiani said. He added that officials of the buying groups had moved to bar member hospitals from reviewing his company's equipment.

At the April hearing, Mr. Norling promised the subcommittee's chairman, Senator Herb Kohl, Democrat of Wisconsin, that he would personally review the group's dealings with Masimo.

Subsequently, Premier said that it would consider Masimo for a contract under a program for companies that offer new and innovative technologies, the same program that had previously rejected the company's device. Then, in another turnaround, Premier said in July that it was dropping its exclusive arrangement with Nellcor, which had been set to run until 2005, and would reopen the pulse oximeter contract for bids.

Yesterday, Premier announced that it had awarded contracts to three companies, Masimo, Nellcor and the Novametrix unit of [Respironics](#).

"Continuously improving our contract portfolio reflects our members' expectations that Premier continues to lead with new contracts and enhanced contracting strategies," Howard Sanders, the executive responsible for Premier's group purchasing services, said in a statement.

Mr. Kiani said he was extremely pleased with Premier's decision and said he hoped that the buying group would review other exclusive contracts for medical devices, as it has promised to do.

"We have been trying to get into these hospitals for four years," he said in a phone interview yesterday.