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The Honorable Josh Shapiro
Attorney General for the Commonwealth of Pennsylvania
Pennsylvania Office of Attorney General
Antitrust Section
14th Floor, Strawberry Square
Harrisburg, PA 17120

Ms. Jessica Altman
Insurance Commissioner
Pennsylvania Insurance Department
1326 Strawberry Square
Harrisburg, PA 17120

RE: Proposed Merger of CVS Health Corporation and Aetna, Inc.

Dear Attorney General Shapiro and Insurance Commissioner Altman:

On behalf of the Pennsylvania Medical Society (PAMED), I am writing to express PAMED's concern that the proposed merger of CVS Health Corporation (CVS) and Aetna Inc. (Aetna) would reduce health care market competitiveness, endanger patient safety, and lessen quality of care in Pennsylvania.

In December of 2017, CVS reached an agreement to acquire Aetna. Pursuant to this agreement, Aetna would become a direct wholly-owned subsidiary of CVS Pharmacy, Inc., which is a subsidiary of CVS.

Both Aetna and CVS are among the largest market players in their respective industries. Aetna is one of the largest health care insurers in the United States and Pennsylvania. In fact, according to 2017 statistics, Aetna owns the third highest market share of health insurers in Pennsylvania and services approximately ten percent of the state's Medicaid population. Likewise, CVS is one of the largest retail pharmacy chains in the country. CVS also owns a prominent part of the pharmacy benefit manager service market through its subsidiary CVS-Caremark.

The proposed acquisition of Aetna by CVS raises significant anti-competitive concerns. The California Department of Insurance and the American Medical Association (AMA) recently submitted letters to the United States Department of Justice (DOJ) regarding the potential anti-competitive impact of a CVS-Aetna merger. Their letters warn, that unless blocked, the merger would likely "injure consumers by raising prices, lowering quality, reducing choice and stifling innovation" in five poorly performing markets across the country: Medicare Part D Standalone Prescription Drug Coverage, PBM services, health insurance, retail pharmacy, and specialty pharmacy.

These letters also warn that a CVS-Aetna merger could endanger patient safety and lessen quality of care by allowing non-medical professionals to make treatment decisions, based on corporate profit incentives and not the medical needs of patients. As noted by the California Department of Insurance, a CVS-Aetna merger creates the potential for increased revenues through the sale of specialty pharmacy prescriptions, which would incentivize the new entity to direct insureds to CVS pharmacies and penalize them for obtaining specialty drugs from their treating physician. This penalty to insureds would fragment patient care by “removing the oversight of the treating physician” and impair a physician’s ability to monitor their patient’s course of treatment.

PAMED agrees with the concerns of the California Department of Insurance and the AMA and urges the Pennsylvania Insurance Department and Office of Attorney General to consider the potential anticompetitive effects and subsequent negative impact that a CVS-Aetna merger would have on Pennsylvania’s patients and the health care community at large.

PAMED respectfully requests that the Insurance Department hold a public hearing to explore the possible implications that the CVS-Aetna merger would have on patients, providers, and the health care market in Pennsylvania.

PAMED believes that the proposed merger of CVS and Aetna would have anti-competitive effects that are not be in the best interest of Pennsylvania’s patients, providers, and health care market. PAMED thanks the Insurance Department and the Office of Attorney General for hearing our concerns and giving these concerns consideration. If you have any questions, please feel free to contact our General Counsel, Angela Boateng.

Sincerely,



Theodore A. Christopher, MD, FACEP
President

Attachments (2):

- AMA Letter to the Department of Justice (first 29 pages): <https://searchlf.ama-assn.org/undefined/documentDownload?uri=%2Funstructured%2Fbinary%2Fletter%2FLETTERS%2F2018-8-7-Letter-to-Delrahim- CVS- Aetna- Merger.pdf>
- California Department of Insurance Letter to the Department of Justice: <http://www.insurance.ca.gov/0400-news/0100-press-releases/2018/upload/nr085LtrJonestoUSAGSessionsreCVS-AetnaMerger.pdf>