

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1765

To exempt from the antitrust laws, mergers and service allocations entered into by certain hospitals in low population areas.

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IN THE HOUSE OF REPRESENTATIVES

APRIL 21, 1993

Mr. SLATTERY (for himself, Mr. SYNAR, Mr. THOMAS of Wyoming, Mr. ROBERTS, Mr. BEREUTER, and Mr. STENHOLM) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To exempt from the antitrust laws, mergers and service allocations entered into by certain hospitals in low population areas.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

3        **SECTION 1. SHORT TITLE**

4        This Act may be cited as the “Hospital Antitrust  
5        Fairness Act”.

6        **SEC. 2. ANTITRUST EXEMPTION.**

7        The antitrust laws shall not apply with respect to—

8                (1) the combination of, or the attempt to com-  
9        bine, 2 or more hospitals,

1           (2) a contract entered into solely by 2 or more  
2           hospitals to allocate hospital services, or

3           (3) the attempt by only 2 or more hospitals to  
4           enter into a contract to allocate hospital services.

5 If each of such hospitals satisfies all of the requirements  
6 of section 3 at the time such hospitals engage in the con-  
7 duct described in paragraph (1), (2), or (3), as the case  
8 may be.

9 **SEC. 3. REQUIREMENTS.**

10          The requirements referred to in section 1 are as  
11 follows:

12           (1) The hospital is located outside of a city, or  
13           in a city that has less than 150,000 inhabitants, as  
14           determined in accordance with the most recent data  
15           available from the Bureau of the Census.

16           (2) In the most recently concluded calendar  
17           year, the hospital received more than 40 percent of  
18           its gross revenue from payments made under Fed-  
19           eral programs.

20           (3) There is in effect with respect to the hos-  
21           pital a certificate issued by the Health Care Financ-  
22           ing Administration specifying that such Administra-  
23           tion has determined that Federal expenditures would  
24           be reduced, and consumer costs would not increase,  
25           if the 2 or more hospitals that request such certifi-

1       cate merge, or allocate the hospital services specified  
2       in such request, as the case may be.

3 **SEC. 3. DEFINITION.**

4       For purposes of this Act, the term “antitrust laws”  
5 has the meaning given such term in subsection (a) of the  
6 first section of the Clayton Act (15 U.S.C. 12), except that  
7 such term includes section 5 of the Federal Trade Com-  
8 mission Act (15 U.S.C. 45) to the extent that such section  
9 5 applies with respect to unfair methods of competition.

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