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PRACTICES

- Health Care
- Antitrust
- Pharmaceutical Industry & Prescription Drugs
- Medical Devices
- Managed Care
- Health Care Professional & Trade Associations
- Health Care Litigation
- Health Care Fraud & Abuse
- Government Health Care Programs
- Corporate/Transactional
- Compliance Training & Development
- Antitrust & Trade Regulation
- Government & Internal Investigations
- False Claims Act
- Administrative Law & Regulatory
- Privacy & Cybersecurity
- Litigation & Trial

Arthur N. Lerner focuses his practice on antitrust, transactions and fraud and abuse issues for health insurers, health care providers and other health care entities. He is co-chair of the firm's Health Care Group. Art handles mergers and acquisitions, joint ventures, antitrust investigations by the Department of Justice and the Federal Trade Commission, government program fraud and abuse compliance, health reform initiatives and compliance under the Affordable Care Act (ACA) accountable care organization (ACO) transactions and other complex regulatory and competition law counseling and litigation matters. Art directed the FTC's health care antitrust program from 1982 to 1985. Before that, he served as attorney advisor to the Chairman of the Federal Trade Commission, assistant to the director of the Bureau of Competition, and as an FTC trial attorney in health care antitrust.

Recent representative engagements:

- Lead antitrust counsel for Coventry Health Care, Inc. in its pending \$7.2 billion acquisition by Aetna Inc. The combination of two of the largest 10 health insurance companies in the country is subject to antitrust review by the Department of Justice Antitrust Division.
- Lead antitrust counsel for Humana Inc. in its acquisition of Arcadian Health Management, including representation of Humana in the Department of Justice Antitrust Division investigation under the Hart-Scott-Rodino Act of the merger's impact on competition in the sale of Medicare Advantage health benefits coverage and in proceedings under the Tunney Act for approval of the consent agreement permitting the acquisition to be consummated. *United States v. Humana Inc.*, Case: 1:12-cv-00464 (RBW) (D.D.C. 2012).
- Antitrust counsel for Fletcher Allen Partners, the leading hospital system in Vermont, in its 2012 combination with Champlain Valley Health Center in Plattsburgh, New York.
- Secured voluntary dismissal of putative class action complaint alleging a price-fixing conspiracy under California's Cartwright Act and Unfair Competition Law.

Plaintiffs, a group of independent retail pharmacies, alleged that Health Net had entered into a conspiracy to not reimburse patients or their pharmacies for generic versions of Lipitor. Crowell & Moring convinced the plaintiffs to dismiss Health Net without any compensation or remedy (even before filing of any motion to dismiss) based on a presentation of facts demonstrating that Health Net had not engaged in the alleged anticompetitive misconduct. *RP Health Care, Inc. v. Pfizer, Inc.*, Case No. CV-12-1059 JSW (N.D.Cal. 2012).

- Represented Health Net in renegotiation of its comprehensive pharmacy benefits management arrangements with CVS Caremark Corporation and the \$160 million sale of Health Net's Medicare Prescription Drug Plan (PDP) business to Caremark CVS. To permit consummation of the transactions, we secured clearance from the Department of Health & Human Services Centers for Medicare & Medicaid Services and the Antitrust Division of the Department of Justice.
- In 2011 and 2012, successfully represented two major health insurers in parallel investigations by the United States Department of Justice Antitrust Division and two state attorneys general, focused on the insurers' use of most favored nation (MFN) clauses in contracts with health care providers. Both investigations were closed without any enforcement action.
- Antitrust counsel for Kaiser Foundation Health Plan, defending client against allegations that it conspired with labor union to drive plaintiff hospital system out of business. Motion to dismiss initial complaint granted in its entirety. Motion to dismiss amended complaint pending. *Prime Healthcare Services, inc. v. Service Employees International Union*, Case NO. 11-CV-02652 JLS (S.D. Cal. 2012).
- Successful representation in 2012 of two health plan carriers in audits of their community rates under the Federal Employees Health Benefits Program.
- Internal review of major national health insurer's compliance with the new medical loss ratio (MLR) requirements under the Affordable Care Act (ACA) health reform law.

Art is a member of the Board of Directors of the American Health Lawyers Association (AHLA) and former Chair (2004-2007) of the antitrust practice group of the AHLA. He is also former Chair of the American Bar Association Antitrust Section's Federal Civil Enforcement Committee (2006-2007) and Federal Trade Commission Committee (2004-2006), and a member of the advisory board for the Bureau of National Affairs' *Health Insurance Report*. Art speaks frequently for the AHLA, the American Bar Association and other professional organizations on antitrust, managed care, fraud and abuse and emerging health law issues.

Art is recognized as a top lawyer in the healthcare field nationally by *Chambers USA* and is recognized in both antitrust and healthcare law by *The Best Lawyers in America* (2008 through 2013 editions). He was named one of the top 25 managed care attorneys in the country by *The National Law Journal* and is highly recommended in Legal Media's *Guide to the Leading US Healthcare Lawyers*. He was named 2013 Lawyer of the Year in Health Care Law in Washington, D.C. by *Best Lawyers*®. In addition, Art has been listed on the *BTI Client Service All-Star Team for Corporate Transactions*, in recognition of his ability to break down deal complexities and his profound understanding of his clients' business.

Government Experience

- Federal Trade Commission-Assistant Director, Health Care, Bureau of Competition

Admissions/Affiliations

Admitted to practice: District of Columbia, Massachusetts (inactive), U.S. Supreme Court, U.S. Court of Appeals: Third Circuit, Eighth Circuit, Ninth Circuit & Federal Circuit, U.S. District Court for the District of Columbia, U.S. District Court for the District of Massachusetts, U.S. Court of Federal Claims

Education

- University of Michigan, A.B. (1973) with distinction, high honors
- Harvard Law School, J.D. (1976) *magna cum laude*