

axinn

The Competitive Edge

Health Care



Axinn LLP

Winning the health care value race

Consolidation and convergence are shaping the future of health care. As providers and payors face significant financial pressures, horizontal and vertical mergers and a wide range of industry collaborations are on the rise. At the same time, regulators are weighing the benefits of coordinated care against its impact on competition — and looking closely at individual transactions — while the stakes of government investigations and private litigation have never been higher.

In this unsettled environment, mastery of competition laws, plus a nuanced understanding of the health care industry, are key to effective growth strategies and successful advocacy before antitrust regulators.

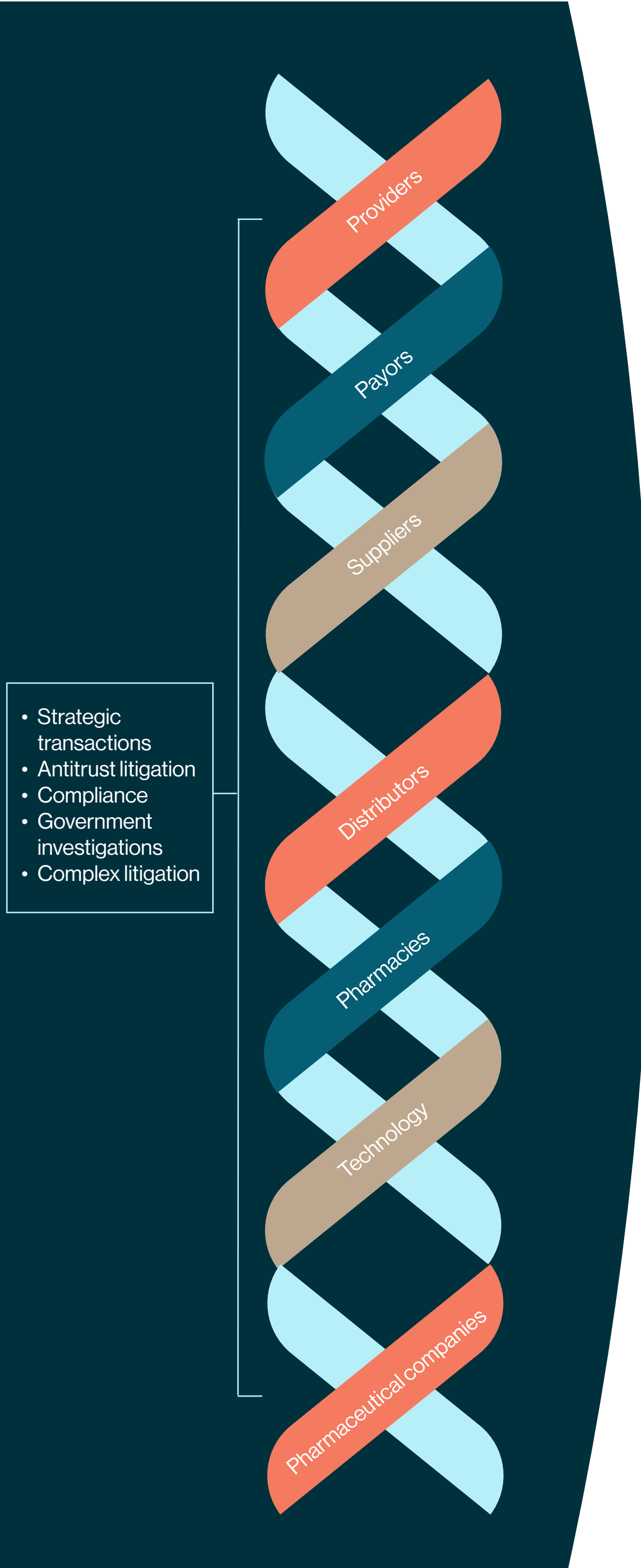
360-degree health care knowledge

Axinn brings unmatched depth in the skills needed to address health care collaboration and competition. Named “Firm of the Year” four times by *Global Competition Review*, we are among the leading and most respected antitrust firms in the world, with 100+ full-time competition lawyers. We represent companies across the health care universe, including providers, payors, suppliers and distributors, technology companies, and investors. We help clients avoid antitrust land mines, complete mission-critical deals, and protect their interests in litigation and investigations.

Health care leaders and emerging players call on us to navigate:

- Mergers and acquisitions
- Divestitures
- FTC, DOJ and state AG investigations and litigation
- Internal investigations
- Joint ventures and other competitor collaborations
- Multi-jurisdictional competition reviews
- Pricing and marketing practices
- Antitrust compliance
- R&D agreements
- IP settlement analysis
- Transaction due diligence
- High-stakes private litigation

Go-to antitrust firm across the health care continuum

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- Strategic transactions
 - Antitrust litigation
 - Compliance
 - Government investigations
 - Complex litigation

Clearance for challenging deals

“The firm is a go-to destination for companies facing complex and challenging antitrust cases.”

—GCR Firm of the Year

Rising health care costs and demand for integrated services are driving an increase in mergers and acquisitions, joint ventures, strategic affiliations, and other collaborations. But intensive regulatory scrutiny can delay or even block these mission-critical transactions. Our antitrust team is known for getting regulatory approvals where others can't.

Right from the start

The best way to win an antitrust challenge is not to have one. Our deep understanding of health care participants and regulatory priorities helps us structure transactions that limit risk. We work closely with clients and transaction counsel during initial risk analysis, due diligence and deal term negotiations.

Surviving agency review

When regulators take an interest in your transaction, our significant antitrust capabilities, along with our nearly 100 years of combined experience within the FTC, DOJ and other regulators, make us persuasive, credible advocates. Our lawyers speak their language, anticipate their concerns and know the keys to winning government approval.

Dealing with multiple regulators

Health care transactions frequently involve multiple state and federal stakeholders. We understand the interactions between different agency and department processes, and work with our clients and their regulatory counsel to coordinate and streamline multiple approvals.

100+ full-time
antitrust lawyers

\$468b in deals receiving Second
Requests or extended reviews

Navigating high-stakes lawsuits

The complex relationships among providers, payors, manufacturers and suppliers make the health care industry a frequent target of antitrust litigation. Whether civil or criminal, public, private or class action, these lawsuits can jeopardize operations, damage reputations and carry severe penalties.

High-stakes, high-profile experience

Our lawyers are practiced in the art of explaining complex market and economic concepts to judges, juries and government agencies. We recently secured summary judgment on behalf of a major insurer in its defense of alleged Section 1 and Section 2 claims; are acting as lead counsel for a leading insurer in one of the largest antitrust class actions in U.S. history; have represented pharmaceutical companies in reverse payment litigation; and successfully defeated a bid to enjoin the affiliation between two health insurers. We also are one of the only firms ever both to have defeated the DOJ at trial in a merger challenge and to have been retained by the DOJ as antitrust trial counsel.

We handle all aspects of disputes, including compliance programs, internal investigations, remedy negotiation, government investigations, criminal proceedings and civil litigation.

Mission-critical litigation

We handle antitrust disputes involving allegations of:

- Price-fixing
- Monopolization
- Anticompetitive mergers and acquisitions
- Horizontal integration
- Market divisions and allocations
- Refusals to deal
- Sales and distribution issues
- Referral practices
- Insurance contract practices
- Other anticompetitive conduct

“The complexity of the matters they handle and the sophistication of the practice distinguishes them from competitors.”

—Chambers USA

“Axinn proves to have not just the necessary knowledge and skill to handle complex and sophisticated matters, but the depth of experience to anticipate unforeseen hurdles.”

—Chambers USA

Health care + technology: conquering the new frontier

From patient communication portals to electronic health records (EHR) to online payment solutions, technology is changing the face of health care. We are helping first-movers secure competitive advantages through innovative mergers, collaborations, joint ventures and business affiliations, while guiding them through potential antitrust minefields.

At home in the tech space

Integrating two distinct industries like health care and technology doubles the complexity of market analysis. Axinn lawyers can draw on a deep reservoir of tech experience. Our lawyers regularly work with technology companies from start-ups to multinationals. In the past 10 years, we have handled mergers and acquisitions for some of the most innovative companies in the tech sector, including more than \$150 billion in transactions.

Understand the unique challenges of vertical transactions

Unlike horizontal health care mergers, combinations of health care and technology firms don't involve direct competitors. Instead, they are vertical transactions, combining firms in different parts of the supply chain. We are experienced in handling the complex and unique issues that arise in these mergers, such as the use of behavioral vs. structural remedies, the growing involvement of state attorneys general, and the agencies' evolving views on taking enforcement action in purely vertical mergers.

Representing participants before

- Department of Justice (DOJ)
- Federal Trade Commission (FTC)
- State attorneys general
- State and federal trial and appeals courts
- Other state regulators

Strategies in action

Served as antitrust counsel for UPMC in its affiliation with Washington Health System

Axinn guided University of Pittsburgh Medical Center (UPMC), a world-renowned health care provider and insurer, in its affiliation with Washington Health System, which is now known as UPMC Washington. The affiliation ensured continuing access to high quality health care for communities in southwestern Pennsylvania. Axinn supported UPMC in antitrust reviews by the Federal Trade Commission and the Pennsylvania Office of Attorney General.

Secured global merger-control clearances for Thermo Fisher Scientific in its \$3.1 billion acquisition of Olink Holding

We advised Thermo Fisher Scientific, a global life sciences leader, in helping obtain unconditional regulatory clearance in the U.S., UK, Germany, and Iceland in its \$3.1 billion acquisition of Olink Holding, the Swedish provider of next-generation proteomics solutions. Authorities examined whether Olink’s high-plex technology overlapped with Thermo Fisher Scientific’s offerings. Axinn demonstrated the technologies were complementary, serving distinct customer needs, and secured the expiration of the HSR waiting period and unconditional clearances in all jurisdictions.

Advised on an \$8 billion health insurer merger that is transforming the Massachusetts health care landscape

The merger of the second-largest nonprofit health insurer in Massachusetts and the state’s third-largest commercial insurer created a health care system serving close to 2.5 million members. As lead counsel, we coordinated reviews by multiple state and federal regulators, including a Second Request from the DOJ, before the merger was finalized in December 2020. The combined entity is a leader in providing commercial and government-sponsored health care coverage to residents and insurers across New England.

Representing one of the largest insurers in a class action challenging an insurance network covering 100 million Americans

In a historic antitrust class action, we represent one of the largest insurers in the Blue Cross Blue Shield (BCBS) system against allegations that go to the heart of how the BCBS system does business. The suit was brought by subscribers and health care providers seeking treble damages as well as injunctive relief, alleging that the BCBS geographic licensing system is an illegal market allocation scheme and that other features of the licensing arrangements also violate the antitrust laws. We are working with law firms for the other BCBS companies in mounting a vigorous defense in federal and appellate courts.

Locations



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“Axinn has an outstanding capability and ability to accomplish the best for its clients. The team is creative, strategic, and responsive.”

—Chambers USA