



## OFFICE OF THE ATTORNEY GENERAL CONNECTICUT

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### Attorney General Tong Announces \$1.6 Million Antitrust Settlements With Two Connecticut Based Physician Practice Management Companies and Two Connecticut Fertility Clinics

(Hartford, CT) — Attorney General William Tong announced today two antitrust settlements totaling \$1.6 million with Women’s Health USA, In Vitro Science Inc., the Center for Advanced Reproductive Services, PC and Reproductive Medicine Associates of CT.

The settlements are the first of their kind in Connecticut involving anticompetitive conduct by a physician practice management company representing multiple healthcare providers during contract negotiations with third-party payors.

“Anti-competitive business practices in the healthcare market hurt patients and families by driving up prices for health care treatments and services,” **Attorney General Tong said**. “Infertility services are vitally important for people having difficulty conceiving a child and are extremely expensive. I will hold health care businesses and providers accountable when they engage in anti-competitive practices, and our office stands ready to make sure that all Connecticut markets, not just healthcare, are open and competitive.”

“Rigorous oversight is required to combat the rising cost of health care,” **said Comptroller Kevin Lembo**. “I’m grateful for the work of Attorney General Tong and his staff in this investigation and for their commitment to fair and competitive markets for health care services. As consolidation continues throughout the sector, it’s critical that government intervene when consumers need protection.”

Women’s Health USA(WHUSA) is a Connecticut-based provider of physician practice management services to women’s health providers in several states. In Vitro Science Inc., (IVS) also located in Connecticut, provides strategic and management business services for a network of fertility clinics both in and outside of Connecticut, including representing such practices in contract negotiations with third-party payors. The Center for Advanced Reproductive Services, PC (CARS) and Reproductive Medicine Associates of CT (RMACT) — the two largest providers of *in vitro* fertilization (IVF) and other assisted reproductive technology (ART) services in Connecticut — contracted with IVS to provide each practice with strategic and business services.

The Office of the Attorney General's investigation was initiated after it developed preliminary information of possible price fixing and other anticompetitive conduct during a different investigation involving CARS and RMACT. The evidence revealed that IVS's relationship with CARS went beyond the typical management and administrative services provided by a physician practice management company.

Instead, IVS exercised direct and indirect control of CARS's business operations and finances and received a significant percentage of the net revenues CARS received for providing IVF/ART treatments and services. At the same time, IVS also provided management and administrative services for RMACT, a potential competitor of CARS. In return for these services, IVS received a fixed management fee and a percentage of the net revenues RMACT received for providing IVF/ART treatment and services. WHUSA, IVS, CARS, and RMACT fully cooperated with the Attorney General's investigation.

IVS was also responsible for negotiating reimbursement contracts for both CARS and RMACT with third-party payors. During the course of the investigation, the Attorney General found that IVS, CARS and RMACT allegedly violated Connecticut law by engaging in price fixing by jointly negotiating reimbursement rates for IVF/ART services in Connecticut. In addition, IVS's management and services agreement with RMACT included a territorial allocation restriction that prohibited RMACT from encroaching - - and thus competing - - in CARS market territory.

Under [the settlement agreements](#), WHUSA, IVS and CARS agreed to pay a total of \$1,252,401 — a \$300,000 civil penalty and \$952,401 to the State of Connecticut Health Benefit Plan. Under [a separate settlement agreement](#) with the Attorney General, RMACT agreed to pay \$348,856.50 to the Benefit Plan.

In addition, both settlements include detailed business and conduct reforms that ensure a competitive market for IVF/ART services in Connecticut by requiring WHUSA, IVS, CARS and RMACT to cease and desist from:

- Entering into any agreement with any medical group practice to refuse to deal with any third-party payor;
- Allocating customers or markets between any other medical group practice;
- Entering into any agreement among two or more medical group practices that restrains any person from cold calling, soliciting, recruiting, hiring, or otherwise competing for employees (sometimes referred to as a “No-poach agreement”);
- Entering into any agreement with any other medical group practices regarding any terms upon which a medical group practice is willing to deal with any payor, including price terms;
- Entering into any agreement with any medical group practices to refuse to deal individually with any payor through any arrangement other than through WHUSA or IVS; and

- Exchanging information with any medical group practices concerning their willingness to deal with a payor.

The settlement agreements also prohibit IVS from representing RMACT in any negotiations for reimbursement contracts with third-party payors; prohibit CARS and RMACT from merging for a period of three years; and require WHUSA, IVS, CARS and RMACT to institute antitrust and competition compliance programs to assure compliance with the terms of the settlement agreements and the federal and state antitrust and competition laws.

Assistant Attorneys General Nicole Demers, Gregory O'Connell and Michael E. Cole, and Jeremy Pearlman, Chief of the Antitrust and Government Program Fraud Department, assisted the Attorney General with this matter.

Twitter: [@AGWilliamTong](https://twitter.com/AGWilliamTong)

Facebook: [CT Attorney General](https://www.facebook.com/CTAttorneyGeneral)

Media Contact:

Elizabeth Benton

[elizabeth.benton@ct.gov](mailto:elizabeth.benton@ct.gov)