

August 19, 2025

Department of Justice Antitrust Division  
950 Pennsylvania Avenue NW  
Washington, D.C. 20530

Federal Trade Commission  
600 Pennsylvania Avenue NW  
Washington, D.C. 20580

Wisconsin Department of Justice  
17 West Main Street  
Madison, WI 53703

*Re: Delta Dental of Wisconsin's Recent Acquisition of Cherry Tree Dental*

Dear Assistant Attorney General Slater, Chair Ferguson, and Attorney General Kaul:

We write to urge the Department of Justice (DOJ) Antitrust (ATR) Division and the Federal Trade Commission (FTC) to investigate the recent acquisition of practice chain Cherry Tree Dental by insurer Delta Dental of Wisconsin (DDWI).<sup>1</sup> DDWI is the state's dominant dental insurer; its dental health plans cover more than 2.6 million Wisconsinites, and its provider network includes more than 90% of Wisconsin dentists.<sup>2</sup> Cherry Tree Dental is a private equity-backed general dentistry provider and dental services organization (DSO) with more than 40 practices, mostly in Wisconsin but also in Illinois, Michigan, and Minnesota.<sup>3</sup> DDWI's acquisition accelerates the corporate control of Cherry Tree Dental and marks the first time in state history that an insurer owns dental providers.<sup>4</sup> Vertical integration between major players from three increasingly consolidated healthcare industries also poses serious conflicts of interest, endangers public health, and lessens competition in violation of federal antitrust laws.

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<sup>1</sup> "Statement on Dental Insurance Company's Acquisition of Dental Practices," American Dental Association, July 2, 2025, <https://www.ada.org/about/press-releases/statement-on-dental-insurance-company-acquisition-of-dental-practices>.

<sup>2</sup> "About Us," Dental Delta of Wisconsin, accessed July 25, 2025, <https://www.deltadentalwi.com/s/about-us>; "Delta Dental Network Reference," Delta Dental of Wisconsin, accessed July 25, 2025, <https://www4.deltadentalwi.com/assets/images/state/ETF%20Network-Reference.pdf>.

<sup>3</sup> Corrinne Hess, "Dentists across Wisconsin worry after insurance company buys large dental practice," Wisconsin Public Radio, July 28, 2025, <https://www.wpr.org/news/dentists-wisconsin-worry-insurance-company-buys-practice>; "Home," Cherry Tree Dental, accessed July 25, 2025, <https://cherrytreedental.com/>; "ICV Partners Announces Majority Investment In Cherry Tree Dental," ICV Partners, March 16, 2021, <https://www.icvpartners.com/icv-partners-announces-majority-investment-in-cherry-tree-dental/>.

<sup>4</sup> The American Dental Association has expressed "deep concerns" about this transaction as well as its belief "that the health interests of patients are best protected when dental practices and other private facilities for the delivery of dental care are owned and controlled by a dentist licensed in the jurisdiction where the practice is located." Ibid. at 1; Ben Jordan, "'It's a conflict of interest': Dental community raises concerns as Delta Dental buys 25 Wisconsin practices," TMJ4, updated July 23, 2025, <https://www.tmj4.com/about-us/lighthouse/its-a-conflict-of-interest-dental-community-raises-concerns-as-delta-dental-buys-25-wisconsin-practices>.

## Acquiror Delta Dental Plays a Dominant Role in the Increasingly Consolidated Dental Insurance Market

Founded in 1962, DDWI is one of 39 companies that belong to the nation's largest dental insurer, the Delta Dental Plans Association, which covers more than 80 million members across all 50 states.<sup>5</sup>

The U.S. dental insurance market is extremely concentrated.<sup>6</sup> Specifically, Delta Dental is the dominant, and often only, dental insurer in a given state, with an average market share of 59% to 65% between 2013 and 2017.<sup>7</sup> This consolidation is only intensifying. Despite increasing enrollment, the number of dental insurers decreased roughly 15%, from 167 in 2019 to 143 in 2023.<sup>8</sup>

DDWI is also increasingly vertically integrated with other entities along the dental healthcare supply chain, prompting concerns among federal lawmakers and dentists alike. For instance, DDWI owns Wyssta, Inc., whose subsidiaries include a vision insurer, a healthcare benefits manager, and a venture capital firm that has invested in Armata Pharmaceuticals, which develops drugs to treat antibiotic-resistant bacterial infections; Healthentic, which “help[s] benefit managers control costs and outcomes;” and Encara, which markets individual dental plans.<sup>9</sup> DDWI is also a joint owner – with Delta Dental of Illinois and Delta Dental of Virginia – of NorthWinds Technology Solutions, which offers IT services related to dental claims processing.<sup>10</sup>

In January 2024, the Republican leadership of the U.S. House Committee on Energy and Commerce requested that the Government Accountability Office study “the state of consolidation and vertical integration in the vision and dental benefits industries,” including “the impacts of such consolidation and vertical integration on consumers and independent [healthcare] practices.”<sup>11</sup>

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<sup>5</sup> Ibid. at 2; “For dentists,” Delta Dental of Wisconsin, accessed July 25, 2025, <https://www.deltadental.com/us/en/dentist.html>.

<sup>6</sup> The American Dental Association agrees with this assessment, writing in a May 2025 letter to the DOJ ATR Division: “Historically, federal law and state practices allowed dental insurers to function with minimal competition and oversight, a situation that led to concentrated markets, suppressed provider payments, and potential under-service to patients.” “Public Comment on Lack of Competition in the U.S. Dental Insurance Market,” American Dental Association, May 21, 2025, [https://www.ada.org/-/media/project/ada-organization/ada/ada-org/files/advocacy/dental-insurance-reform/public\\_comment\\_on\\_lack\\_of\\_competition\\_in\\_the.pdf](https://www.ada.org/-/media/project/ada-organization/ada/ada-org/files/advocacy/dental-insurance-reform/public_comment_on_lack_of_competition_in_the.pdf).

<sup>7</sup> Consolidated Complaint, *In Re: Delta Dental Antitrust Litigation*, U.S. District Court Northern District of Illinois, Case No. 1:19-cv-06734, Nov. 26, 2019, [https://www.ada.org/-/media/project/ada-organization/ada/ada-org/files/resources/practice/legal-and-regulatory/delta\\_dental\\_litigation\\_cac.pdf](https://www.ada.org/-/media/project/ada-organization/ada/ada-org/files/resources/practice/legal-and-regulatory/delta_dental_litigation_cac.pdf).

<sup>8</sup> “Dental Insurance Enrollment Rising,” Mark Farrah Associates, Feb. 19, 2025, <https://www.markfarrah.com/mfa-briefs/dental-insurance-enrollment-rising/>.

<sup>9</sup> “Report of the Examination of Wyssta Insurance Company, Inc.” Wisconsin Office of the Commissioner of Insurance, Nov. 3, 2022, <https://oci.wi.gov/Documents/Companies/FinWyssta.pdf>.

<sup>10</sup> Ibid.; “About Us,” NorthWinds Technology Solutions, accessed July 25, 2025, <https://www.northwindstech.com/about/>.

<sup>11</sup> The Government Accountability Office has yet to respond to this request. Letter from U.S. Reps. Cathy McMorris Rodgers (R-WA-05) and Brett Guthrie (R-KY-02) to Comptroller General Gene Dodaro, Jan. 30, 2024,

DDWI's recent acquisition of Cherry Tree Dental advances its vertically-integrated business model to include dentistry providers.

Most states prohibit the corporate practice of dentistry by requiring that dental practices be owned and operated by licensed professionals. Such laws are meant to prevent conflicts of interest between corporate owners' financial obligations to shareholders and dental professionals' ethical obligations to patients.<sup>12</sup> However, legal loopholes have allowed corporate entities – including private-equity firms – to circumvent these regulations.<sup>13</sup> Meanwhile, several states, including Wisconsin, allow non-dentists to own and operate dental practices.<sup>14</sup>

This legislative patchwork may enable more insurer-provider consolidation, despite the conflicts inherent to their common ownership. “From a business standpoint, dental insurance companies seek to minimize cost and maximize profit,” the American Dental Association (ADA) wrote in a statement regarding DDWI's acquisition of Cherry Tree Dental. “As a result, patients may find their treatment options limited to what is most cost-effective for the insurer, not necessarily what is most effective for their oral health.”<sup>15</sup>

### **Acquiree Cherry Tree Dental Plays a Large Role in Wisconsin's Increasingly Consolidated Dental Practice and DSO Markets**

Founded in 2006 as a family-owned practice in Madison, Wisconsin, Cherry Tree Dental has grown to encompass more than 40 locations through its “acquisition and office consolidation strategy dedicated to small, one[-] or two-dentist practices.”<sup>16</sup> It was previously the largest independent general dentistry provider in Wisconsin.<sup>17</sup>

Cherry Tree Dental is also one of Wisconsin's largest DSOs, which exist to circumvent state corporate practice of dentistry laws.<sup>18</sup> In a typical arrangement, a dental practice either forms a DSO to attract corporate investment or a corporate entity forms a DSO through which to invest in a dental practice. In both cases, the practice is helmed by a “friendly dentist,” who remains the

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[https://www.aoa.org/AOA/Documents/Advocacy/Letters/Letter%20to%20Hon.%20Gene%20Dorado%20on%20GAO%20Vision%20Study\\_01.30.2024.pdf](https://www.aoa.org/AOA/Documents/Advocacy/Letters/Letter%20to%20Hon.%20Gene%20Dorado%20on%20GAO%20Vision%20Study_01.30.2024.pdf).

<sup>12</sup> Erik Peinert, Pat Garofalo, and Emma Freer, “Tools to Challenge Big Medicine: A Guide for State Lawmakers,” American Economic Liberties Project, updated March 2025, [https://www.economicliberties.us/wp-content/uploads/2025/03/AELP-StateLeg-Healthcare-Toolkit\\_final.pdf](https://www.economicliberties.us/wp-content/uploads/2025/03/AELP-StateLeg-Healthcare-Toolkit_final.pdf).

<sup>13</sup> Fred Schulte, “Sick Profit: Investigating Private Equity's Stealthy Takeover of Health Care Across Cities and Specialties,” *KFF Health News*, Nov. 14, 2022, <https://kffhealthnews.org/news/article/private-equity-takeover-health-care-cities-specialties/>; Helen Santoro, “Private Equity Wants Your Teeth,” *The Lever*, July 22, 2025, <https://www.levernews.com/private-equity-wants-your-teeth/>.

<sup>14</sup> Jim Moriarty and Martin Siegel, “Survey of State Laws Governing the Corporate Practice of Dentistry,” Moriarty Leyendecker, April 10, 2012, <https://oversight.house.gov/wp-content/uploads/2012/04/4-25-12-Survey-of-State-Laws-Governing-the-Corporate-Practice-of-Dentistry.pdf>.

<sup>15</sup> *Ibid.* at 1.

<sup>16</sup> “Cherry Tree Dental Expands into Minnesota with Three Acquisitions,” Cherry Tree Dental, Jan. 13, 2022, <https://www.prnewswire.com/news-releases/cherry-tree-dental-expands-into-minnesota-with-three-acquisitions-301460784.html>.

<sup>17</sup> “Wisconsin DSO Cherry Tree Dental gets private equity investment,” *Becker's Dental + DSO Review*, March 16, 2021, <https://www.beckersdental.com/dso-dpms/wisconsin-dso-cherry-tree-dental-gets-private-equity-investment/>.

<sup>18</sup> *Ibid.* at 12.

legal owner of the practice while the DSO manages the practice in exchange for compensation. Cherry Tree Dental's DSO provides administrative services to its dental practices.<sup>19</sup>

In 2022, ICV Partners, a private-equity firm, acquired a majority stake in Cherry Tree Dental for an unreported amount.<sup>20</sup>

Like the dental insurer market, the dental practice and DSO markets are increasingly consolidated. In recent years, dentists have moved away from practicing independently to employment in large groups and affiliating with DSOs, according to the ADA Health Policy Institute.<sup>21</sup> For instance, 35% of U.S. dentists were in solo practice in 2023, compared with 65% in 1999.<sup>22</sup> Among U.S. states, Wisconsin had the smallest share of dentists in solo practice in 2023.<sup>23</sup> Meanwhile, 13.8% of U.S. dentists were affiliated with a DSO in 2023, up from 7.4% in 2015.<sup>24</sup> Wisconsin had the sixth-highest rate of DSO affiliation, at 21%.<sup>25</sup>

Private-equity investment in dental practices – typically via DSOs – is also accelerating consolidation. In 2024, there were at least 161 private-equity deals in the dental healthcare sector, up 10% year-over-year and more than any other healthcare sector, according to the Private Equity Stakeholder Practice.<sup>26</sup> Most of these transactions evade federal antitrust scrutiny because they fall below the threshold – currently \$126.4 million – that triggers review by the DOJ ATR Division and the FTC.<sup>27</sup>

Private-equity investment in health care is closely associated with significant price increases and “mixed to harmful effects on healthcare quality.”<sup>28</sup> Research shows that private equity-affiliated dental practices not only charge more for care but also shift away from diagnostic and preventive procedures to higher-cost restorative, specialty, or surgical care.<sup>29</sup> For example, 2-year-old Zion Gastelum died in 2017, shortly after dentists at a Kool Smiles clinic in Yuma, Arizona,

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<sup>19</sup> “Home,” Cherry Tree Dental, accessed July 25, 2025, <https://cherrytreedental.com/>.

<sup>20</sup> *Ibid.* at 3.

<sup>21</sup> Marko Vujicic, “The Evolving Dental Practice Model: Data Update for 2023 on Practice Size and DSO Affiliation,” ADA Health Policy Institute, accessed July 25, 2025, [https://www.ada.org/-/media/project/ada-organization/ada/ada-org/files/resources/research/hpi/hpi\\_evolving\\_dental\\_practice\\_model\\_2023.pdf](https://www.ada.org/-/media/project/ada-organization/ada/ada-org/files/resources/research/hpi/hpi_evolving_dental_practice_model_2023.pdf); Marko Vujicic, “The Evolving Dental Practice Model: Data Update for 2022,” ADA Health Policy Institute, accessed July 25, 2025, [https://www.ada.org/-/media/project/ada-organization/ada/ada-org/files/resources/research/hpi/hpi\\_evolving\\_dental\\_practice\\_model\\_2022.pdf](https://www.ada.org/-/media/project/ada-organization/ada/ada-org/files/resources/research/hpi/hpi_evolving_dental_practice_model_2022.pdf).

<sup>22</sup> *Ibid.*

<sup>23</sup> *Ibid.* at 21.

<sup>24</sup> *Ibid.* at 21.

<sup>25</sup> *Ibid.* at 21.

<sup>26</sup> Mary Bugbee, Eileen O’Grady, and Michael Fenne, “Private Equity Healthcare Deals: 2024 in Review,” Private Equity Stakeholder Project, Feb. 20, 2025, [https://pestakeholder.org/reports/healthcare-deals-2024-in-review/#\\_ftn38](https://pestakeholder.org/reports/healthcare-deals-2024-in-review/#_ftn38).

<sup>27</sup> *Ibid.* at 13; “New HSR thresholds and filing fees for 2025,” Federal Trade Commission, Feb. 6, 2025, <https://www.ftc.gov/enforcement/competition-matters/2025/02/new-hsr-thresholds-filing-fees-2025>.

<sup>28</sup> Alexander Borsa et al., “Evaluating trends in private equity ownership and impacts on health outcomes, costs, and quality: systematic review,” *BMJ*, July 19, 2023, <https://www.bmj.com/content/382/bmj-2023-075244>.

<sup>29</sup> Kamyar Nasseh et al., “Financial Incisors: Cutting Through the Effects of Private Equity on Dentistry Market Dynamics and Care Delivery,” SSRN, Nov. 19, 2024, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=5025719](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5025719).

performed root canals and put crowns on six of his baby teeth.<sup>30</sup> His parents alleged in a since-settled lawsuit that the private equity-affiliated clinic “overtreats, underperforms[,] and overbills” to maximize corporate profits.<sup>31</sup>

### **Insurer Acquisitions of Dental Practices Harm Patients, Providers, and Competition**

DDWI’s acquisition of Cherry Tree Dental practices is rife with conflicts and harms patients, providers, and competition.

Although DDWI claims the transaction – which includes several practices in the Milwaukee metro area – will shore up its provider network in rural areas, its financial incentives are clear.<sup>32</sup> They include:

- Earning double margins, from “premiums on the front end and service profits on the back.”<sup>33</sup>
- Steering members to its affiliated dental practices, to earn those double margins, and away from unaffiliated practices, foreclosing competition and limiting patient choice.
- Threatening independent practices with removal from DDWI’s provider network, which could be financially ruinous, to force them to sell to Cherry Tree Dental and, by extension, DDWI.
- Overriding dentists’ clinical decision-making at its affiliated practices to cut costs and maximize profits.
- Locking dentists at its affiliated practices into unfair employment arrangements in which their job security is tied to accepting untenably low reimbursement rates.<sup>34</sup>
- Gaming state laws that establish dental loss ratios, or requirements that dental insurers spend a certain portion of premium dollars on benefits in an effort to cap administrative costs.<sup>35</sup>

These same incentives have fueled vertical integration between health insurers and medical providers, which is much more advanced than in the dental healthcare industry – and which an extensive and growing body of research has shown drives costs up, quality down, and independent providers out of business.<sup>36</sup>

### **This Acquisition Likely Violates Federal Antitrust Law**

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<sup>30</sup> Ibid. at 13.

<sup>31</sup> Ibid. at 13.

<sup>32</sup> Ibid. at 4.

<sup>33</sup> “Delta claims a DSO (for itself),” *The Morning Grind*, July 15, 2025, <https://www.themorninggrind.com/p/delta-claims-a-dso-for-itself>.

<sup>34</sup> Ibid.

<sup>35</sup> Olivia Anderson, “Dental loss ratio: Putting patient care first,” *ADA News*, April 22, 2025, <https://adanews.ada.org/ada-news/2025/april/dental-loss-ratio-putting-patient-care-first/>.

<sup>36</sup> “America’s Health Care Consolidation Crisis: A Ledger of Harms and Framework for Advancing Economic Liberty for All,” American Economic Liberties Project, October 2024, <https://www.economicliberties.us/wp-content/uploads/2024/10/10-24-AELP-healthcare-ledger.pdf>.

Given these harms, DDWI's acquisition of Cherry Tree Dental practices may violate Section 7 of the Clayton Act. As the Supreme Court has explained, vertical mergers and acquisitions – where companies at different stages of the same supply chain become entwined – inherently entail a risk that, “by foreclosing the competitors of either party from a segment of the market otherwise open to them, the arrangement may act as a clog on competition,” depriving “rivals of a fair opportunity to compete.”<sup>37</sup> While not per se unlawful, like any other transaction subject to the Clayton Act, vertical transactions are prohibited if, “in any line of commerce or in any activity affecting commerce in any section of the country, the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly.”<sup>38</sup> The intent of the Clayton Act is to halt monopolization trends in their incipency.<sup>39</sup>

The 2023 Merger Guidelines issued by the DOJ ATR Division and the FTC flag a variety of situations in which a merger may raise antitrust concerns, including where a merger would “limit access to products or services that ... rivals use to compete” (Guideline 5), would “entrench or extend a dominant position” (Guideline 6), would heighten the risk of concentration in an industry already undergoing a trend toward consolidation (Guideline 7), and “involves a multi-side platform” (Guideline 9).<sup>40</sup>

DDWI's acquisition of Cherry Tree Dental practices:

- Likely would limit access to services that rival insurers and dental practices use to compete. By acquiring dental practices, DDWI can steer its members to affiliated providers and away from unaffiliated providers, foreclosing competition. DDWI can also overpay its affiliated providers relative to unaffiliated providers, generating excess revenue, gaming state regulations, and undercutting its competitors.<sup>41</sup>
- Involves an already dominant firm – DDWI – attempting to extend its dominance to the dental practice and DSO markets in Wisconsin.
- Heightens the risk of concentration in three increasingly consolidated industries.

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<sup>37</sup> *Brown Shoe Co., Inc. v. United States*, 370 U.S. 294, 346 (1962) (cleaned up, citations omitted); see also “Merger Guidelines,” U.S. Department of Justice and Federal Trade Commission, Dec. 18, 2023, <https://www.justice.gov/d9/2023-12/2023%20Merger%20Guidelines.pdf>.

<sup>38</sup> 15 U.S.C. § 18.

<sup>39</sup> See, e.g., *United States v. AT&T, Inc.*, 916 F.3d 1029, 1032 (D.C. Cir. 2019), and *FTC v. Heinz*, 246 F.3d 708, 719 (D.D.C. 2001). (A merger violates Section 7 if it “create[s] an appreciable danger” of anticompetitive consequences after consummation of the merger.) See also Written comments from the American Economic Liberties Project in response to Synopsys, Inc., and ANSYS, Inc., July 7, 2025, <https://www.regulations.gov/comment/FTC-2025-0035-0002>.

<sup>40</sup> *Ibid.* at 37.

<sup>41</sup> For example, a January 2025 report by the Federal Trade Commission found that the “Big Three” pharmacy benefit managers – CVS Caremark, Cigna Group’s Express Scripts, and UnitedHealth Group’s OptumRx – overpaid their affiliated pharmacies, on average, up to 7,736% for certain drugs. Similarly, a November 2024 *Stat* investigation found that UnitedHealth Group’s insurance subsidiary UnitedHealthcare overpaid its affiliated physician practices up to 111% above the market average. “Specialty Generic Drugs: A Growing Profit Center for Vertically Integrated Pharmacy Benefit Managers,” Federal Trade Commission, January 2025, [https://www.ftc.gov/system/files/ftc\\_gov/pdf/PBM-6b-Second-Interim-Staff-Report.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/PBM-6b-Second-Interim-Staff-Report.pdf); Bob Herman et al., “Health Care’s Colossus: UnitedHealth pays its own physician groups considerably more than others, driving up consumer costs and its profits,” *Stat*, Nov. 25, 2024, <https://www.statnews.com/2024/11/25/unitedhealth-higher-payments-optum-providers-converts-expenses-to-profits>.

- Involves a multi-sided platform, as DDWI's business lines now include dental insurance, healthcare benefits management, dental claims processing, and dental practices, among other subsidiaries.

For all these reasons, we respectfully request that the DOJ ATR Division and FTC heed congressional and dentists' concerns about vertical integration in the dental healthcare industry by scrutinizing DDWI's acquisition of Cherry Tree Dental and, depending on your findings, unwinding it. Otherwise, insurer-provider mergers may proliferate in Wisconsin and beyond. As a result, dental care will increasingly be dictated by insurers that profit when patients receive fewer services, dentists' clinical judgment is overruled, and competition is foreclosed.

Sincerely,

Alliance of Independent Dentists  
American Economic Liberties Project