Cory Capps, Ph.D. Partner

Summary of experience

Cory Capps has more than 10 years of experience as an economist specializing in industrial organization, empirical methods, and antitrust, with a focus on the health care industry. He has advised both private firms and government agencies on issues relating to hospital market power and competition, and he has experience analyzing joint ventures, group purchasing organizations, price-fixing and market allocation, and vertical foreclosure. Recently, Dr. Capps served as an outside expert in a Department of Justice investigation of a proposed merger in the health care sector.

Prior to joining Bates White, Dr. Capps was a Staff Economist at the Antitrust Division of the Department of Justice (DOJ) where he concentrated on the analysis of competition in health care markets including merger and civil nonmerger investigations of hospitals, physicians, nurses, insurers, home health agencies, and ambulatory surgery centers. While at the DOJ, he provided written testimony on geographic market definition before the DOJ/FTC Hearings on Health Care Competition, Policy, and Law. And he provided oral testimony on for-profit and nonprofit hospital market power and pricing before the DOJ/FTC Hearings on Health Care Competition, Policy, and Law.

In addition to Dr. Capps' broad health care experience, he has conducted economic analysis for investigations and cases involving a variety of industries such as airlines, semiconductors, newspapers, online content providers, and genetically modified crops. Dr. Capps has also provided economic consulting services to corporations on business and strategy issues. Specifically, he has used theoretical and empirical analyses to offer strategic advice to online content providers regarding keyword search advertising.

Dr. Capps' academic career includes professorships at the University of Illinois at Urbana-Champaign and at Northwestern University's Kellogg School of Management. He has published widely in journals including RAND Journal of Economics, Journal of Economics and Management Strategy, Journal of Health Economics, Antitrust Bulletin, Health Affairs, and Health Economics, Policy and Law.

Cory Capps, Ph.D. Bates White, LLC Page 2 of 7

Areas of expertise

- Industrial organization
- Antitrust
- Health economics
- Applied econometrics
- Innovation and technology

Professional experience

- Partner, Bates White, LLC, 2009-present
- Principal, Bates White, LLC, 2007–2009
- Economist, Economic Analysis Group, Department of Justice, 2004–2007
- Associate Director, Center for Health Industry Management, Kellogg School of Management, Northwestern University, 2002–2004
- Research Assistant Professor, Department of Management and Strategy, Kellogg School of Management, Northwestern University, 2001–2004
- Visiting Economist, Economic Analysis Group, Department of Justice, 2001–2002
- Assistant Professor, Department of Economics, University of Illinois at Urbana-Champaign, 1999–2000

Selected experience

- Provided economic consulting support to Delta Air Lines and Northwest Airlines in connection with their proposed merger under investigation by the Department of Justice. Identified antitrust risks, analyzed price effects, and developed a retrospective merger analysis for the airline industry. Additional responsibilities included assisting counsel with certifying compliance for the second request.
- Member of the Economic Reference Group, Cooperation & Competition Panel,
 National Health Service, United Kingdom. Providing industry expertise and competition
 policy advice to the agency charged with overseeing the application of antitrust and
 consumer protection laws to the healthcare sector in the United Kingdom.
- Providing a client in the hospital industry with antitrust and industry expertise to assist it and the Department of Justice in investigating alleged anticompetitive conduct by

Cory Capps, Ph.D. Bates White, LLC Page 3 of 7

competing firms. Investigations involve complex issues of horizontal and vertical market foreclosure.

- Providing a client in the healthcare industry with antitrust and industry expertise to
 define relevant markets and assess the competitive effects of alleged exclusionary
 conduct.
- Working with testifying expert to conduct economic analysis on behalf of an ambulatory surgery center in a monopolization lawsuit alleging illegal bundling and tying. Analyzing the impact of exclusive contract arrangements between the defendant hospital system and one of its largest health plan beneficiaries.
- Working with testifying expert to analyze the merger of two hospital systems in New England on behalf of a third party. Presenting evaluation of market definition and competitive effects to the state insurance commission, the state attorney general, and the Federal Trade Commission.
- Performed market definition and competitive effects analyses on behalf of the DOJ in a
 merger investigation in the health care sector. Analysis of competitive effects included an
 econometric study to predict the likely shares incoming entrants would obtain in the
 market. Subsequent events have borne out this prediction.
- Advised the Netherlands Competition Authority (NMa) and the Netherlands Healthcare Authority (NZa) on competitive issues engendered by new legislation partially deregulating pricing in the Dutch hospital sector.
- On behalf of a client in the financial data and software industry, performed analysis of bidding data and provided assistance to attorneys responding to agency requests in both the United States and Europe in connection with a transatlantic merger.
- Provided testimony on for profit and non-profit hospital pricing and on geographic hospital market definition before the DOJ/FTC Hearings on Health Care Competition, Policy, and Law, Spring 2003.
- In connection with the DOJ's investigation of a significant agricultural biotechnology merger that raised both horizontal and vertical concerns, analyzed data and case documents to define antitrust markets and determine competitive impact. Supported lead economist in presenting research and data analysis to the Department of Justice.
- Served as consulting expert and performed market definition and market share analyses, and assessed competitive effects and antitrust risk, on behalf of a hospital considering several merger scenarios.

Cory Capps, Ph.D. Bates White, LLC Page 4 of 7

- Conducted economic analysis in U.S. and State of Arizona v. Arizona Hospital and Healthcare
 Association and AzHHA Service Corporation. Advised DOJ officials on settlement and
 enforcement issues.
- Conducted economic analysis in *United States v. UnitedHealth Group Inc. and PacifiCare Health Systems, Inc.* Advised DOJ officials on settlement and enforcement issues.
- Provided economic consulting services on a range of health care competition issues for:
 - o UnitedHealthcare (Summer 2001)
 - o The BlueCross BlueShield Association (Summer 2000)
 - o Barr Laboratories (Spring 1999)
 - o Federal Trade Commission (Summer 1997)

Education

- Ph.D., Economics, Northwestern University
- B.A., Economics, University of Texas at Austin

Professional associations

- American Economics Association
- Industrial Organization Society
- American Health Lawyers Association
- International Health Economics Association
- Phi Beta Kappa

Presentations

- Department of Justice, Economic Analysis Group Seminar Series, "Antitrust Treatment of Nonprofits: Should Hospitals Receive Special Care?" Washington, DC (2009)
- Institute of Medicine Workshop, The Healthcare Imperative: Lowering Costs and Improving Outcomes, "The approximate effect of hospital consolidation on national healthcare expenditures," Washington, DC (2009)
- 7th Annual International Industrial Organization Conference, "Antitrust Treatment of Nonprofits" (with Dennis Carlton and Guy David), Boston, MA (2009)
- 57th ABA Antitrust Law Spring Meeting, "Economic Analysis of Buyer Power in Health Plan Mergers," Washington, DC (2009)

Cory Capps, Ph.D. Bates White, LLC Page 5 of 7

- American Health Lawyers Association Antitrust Practice Group, "Economic Perspective on Vertical Integration in Health Care and Antitrust," Washington, DC (2009)
- International Health Economics Association, 6th World Congress, "Hospitals and the Market Environment," Copenhagen, Denmark (2007)
- Annual Health Economics Conference, University Park, PA (2006)
- Southeastern Health Economics Study Group, Atlanta, GA (2006)
- International Conference on Health Policy Research, Chicago, IL (2005)
- Annual Meeting of the American Economics Association, Philadelphia, PA (2005)
- 2nd Annual International Industrial Organization Conference, Chicago, IL (2002)
- Western Economics Association, San Diego, CA (2001)
- Annual Meeting of the American Economics Association, Boston, MA (2000)

Publications

- "Buyer Power in Health Plan Mergers." Journal of Competition Law and Economics, forthcoming.
- "Hospital Closures and Economic Efficiency." With David Dranove and Richard Lindrooth, Journal of Health Economics, forthcoming.
- "The extent of hospital consolidation and its effects on national health expenditures."
 Chapter in The Healthcare Imperative: Lowering Costs and Improving Outcomes, Institute of Medicine of the National Academies, forthcoming.
- "Economic Analysis of Buyer Power in Health Plan Mergers." Article contributed for the 57th ABA Antitrust Law Spring Meeting, Washington, DC (March 2009).
- "Defining hospital markets for antitrust enforcement: new approaches and their applicability to The Netherlands." With Marco Varkevisser and Frederik T. Schut, Health Economics, Policy and Law 3, no. 1 (January 2008).
- "Patient Admission Patterns and Acquisitions of 'Feeder' Hospitals," With Sayaka Nakamura and David Dranove, Journal of Economics and Management Strategy 16, no. 4 (December 2007).
- "Hospital Consolidation and Negotiated PPO Prices." With David Dranove, Health Affairs (March/April 2004).

Cory Capps, Ph.D. Bates White, LLC Page 6 of 7

- "Competition and Market Power in Option Demand Markets." With David Dranove and Mark Satterthwaite, RAND Journal of Economics 34, no. 4 (Winter 2003).
- "Geographic Market Definition in Hospital Merger Cases." With David Dranove, Shane Greenstein, and Mark Satterthwaite, Joint Statement before the Federal Trade Commission and Department of Justice Hearings on Health Care and Competition Law and Policy (April 2004).
- "Antitrust Policy and Hospital Mergers: Recommendations for New Approaches." With David Dranove, Shane Greenstein, and Mark Satterthwaite, Antitrust Bulletin. (Winter 2002).
- "The Silent Majority Fallacy of the Elzinga-Hogarty Criteria: An Application to Hospital Mergers." With David Dranove, Shane Greenstein, and Mark Satterthwaite, NBER Working Paper No. 8216 (November 2002).

Working papers

- "Procuring Healthcare Services: A Survey of the Literature with an Application to Cataract Services," with Leemore Dafny and David Dranove
- "Antitrust Treatment of Nonprofits," with Dennis W. Carlton and Guy David
- "Hospital Unit Entry and Exit," with David Dranove and Richard Lindrooth
- "Information Technology Adoption and Diffusion in the Hospital Industry," with Allison Cuellar
- "The Quality Effects of Hospital Mergers"

Courses taught

- Intermediate microeconomics
- Industrial organization (PhD)
- Competition and strategy in technology markets (MBA)
- Strategy and organizations (MBA)
- Healthcare markets (MBA)

Referee

- Health Affairs
- The RAND Journal of Economics

Cory Capps, Ph.D. Bates White, LLC Page 7 of 7

- Journal of Economics and Management Strategy
- Journal of Economic Geography
- The B.E. Journal of Economic Analysis & Policy
- Journal of Health Care Finance & Economics
- Journal of Law and Economics