Providers that are not financially or clinically integrated must keep separate operations. This can extend to the use of a common agent for the non-integrated providers. The U.S. Department of Justice and Federal Trade Commission addressed this issue in their \textit{Statements of Antitrust Enforcement Policy in Health Care}. In that guidance, the agencies give the following example of \textit{impermissible activity by a physician hospital organization} ("PHO"):

The venture hires an agent to negotiate prices with payers on behalf of the PHO’s participants. The agent does not disclose to the payer the prices the participants are willing to accept . . . but attempts to obtain the best possible prices for all the participants. The resulting contract offer then is relayed to each participant for acceptance or rejection.

The agencies note that the activity mentioned above is prohibited because it “amounts to a per se unlawful price agreement. The participants’ joint negotiation through a common agent confronts the payer with the combined bargaining power of the PHO participants, even though they ultimately have to agree individually to the
contract negotiated on their behalf."

In addition, where physicians make up a large share of the providers in the market and have the power to raise prices above competitive levels by acting collectively, a collective refusal to deal (whether or not a common agent is used) could constitute an illegal boycott in violation of the antitrust laws.

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