



- a. Bryan Henry, M.D., 1530 Railroad Avenue, St. Helena, CA 94574;
  - b. R. Bruce Scarborough, M.D., 1100 Trancas Street, #209, Napa, CA 94558;
  - c. Anthony King, M.D., 980 Trancas Street, #11, Napa, CA 94558;
  - d. Dario Gambetta, M.D., 1530 Railroad Avenue, St. Helena, CA 94574;
  - e. Jerome Solomon, M.D., 1100 Trancas Street, #351, Napa, CA 94558;
  - f. Cheryl Henry, M.D., 975 Sereno Dr., CA 94589.
- 3.

7. This Consent Agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Commission Rule 2.34, 16 C.F.R. § 2.34, the Commission may, without further notice to Proposed Respondents, (1) issue its Complaint corresponding in form and substance with the draft of Complaint here attached and the Decision and Order in disposition of the proceeding and (2) make information public with respect thereto. When so entered, the Decision and Order shall have the same force and effect, and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The Decision and Order shall become final upon service. Delivery of the Complaint and the Decision and Order to Proposed Respondents by any means specified in Commission Rule 4.4(a), 16 C.F.R. § 4.4(a), shall constitute service. Proposed Respondents waive any right they may have to any other manner of service. The Complaint may be used in construing the terms of the Decision and Order, and no agreement, understanding, representation, or interpretation not contained in the Decision and Order or the Consent Agreement may be used to vary or contradict the terms of the Decision and Order.
  
8. Proposed Respondents have read the draft of Complaint and the Decision and Order contemplated hereby. By signing this Consent Agreement, Proposed Respondents represent that the full relief contemplated by this Consent Agreement can be accomplished. Proposed Respondents understand that once the Decision and Order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the Decision and Order. Proposed Respondents agree to comply with Paragraph II of the draft Decision and Order from the date they sign this Consent Agreement. Proposed Respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the Decision and Order after the Decision and Order becomes final.

OBSTETRICS AND GYNECOLOGY MEDICAL  
CORPORATION OF NAPA VALLEY,  
a corporation.

By \_\_\_\_\_  
Bryan Henry, M.D.  
President of Obstetrics and Gynecology Medical  
Corporation of Napa Valley  
Signed this \_\_\_ day of \_\_\_\_\_, 2002.

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Attorney for Obstetrics and Gynecology Medical  
Corporation of Napa Valley, and for the Proposed  
Respondents signing below  
Signed this \_\_\_ day of \_\_\_\_\_, 2002.

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BRYAN HENRY, M.D.  
(on his own behalf)  
Signed this \_\_\_ day of \_\_\_\_\_, 2002.

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R. BRUCE SCARBOROUGH, M.D.  
Signed this \_\_\_ day of \_\_\_\_\_, 2002.

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ANTHONY KING, M.D.

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FEDERAL TRADE COMMISSION

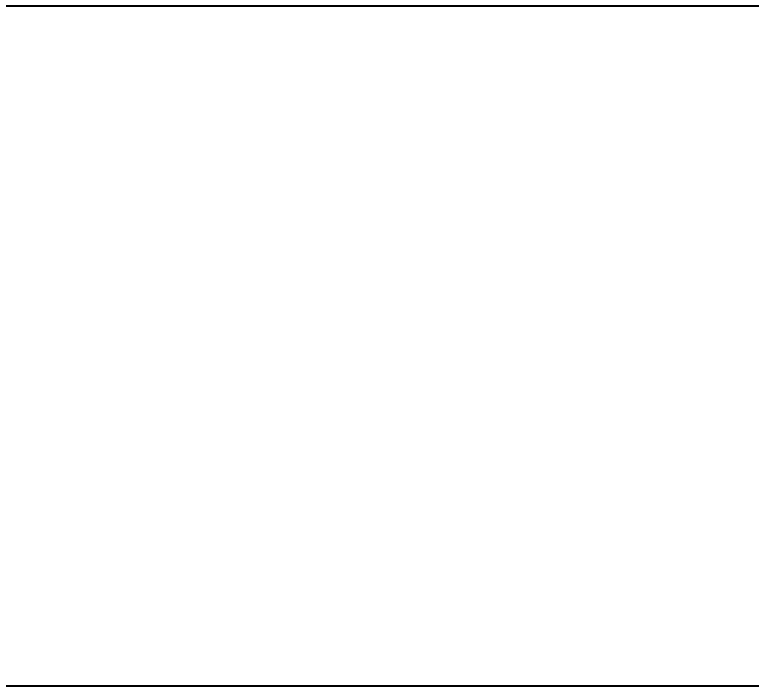
BY: \_\_\_\_\_  
Sylvia Kundig,  
Lisa Rosenthal,  
Thomas Dahdouh,  
John Wiegand,  
Attorneys

APPROVED:

\_\_\_\_\_  
Jeffrey A. Klurfeld  
Director  
Western Region  
Federal Trade Commission

\_\_\_\_\_  
D. Bruce Hoffman  
Associate Director for Regional Litigation  
Bureau of Competition  
Federal Trade Commission

\_\_\_\_\_  
Joseph J. Simons  
Director  
Bureau of Competition  
Federal Trade Commission



that the facts as alleged in such Complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that Respondents have violated the said Act, and that a Complaint should issue stating its charges in that respect, and having accepted the executed Consent Agreement and placed such Consent Agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, now in further conformity with the procedure described in Commission Rule 2.34, 16 C.F.R. § 2.34, the Commission hereby issues its Complaint, makes the following jurisdictional findings and issues the following Order:

1. Respondent Obstetrics and Gynecology Medical Corporation of Napa Valley is a professional corporation organized, existing, and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 1100 Trancas Street, Suite # 209, Napa, CA 94558.
2. The other Respondents are, or have been, members of Obstetrics and Gynecology Medical Corporation of Napa Valley, are physicians licensed to practice medicine in the State of California, and are engaged in the private practice of obstetrics and gynecology for a fee in Napa Valley, California. Their respective business addresses are as follows:
  - a. Bryan Henry, M.D., 1530 Railroad Avenue, St. Helena, CA 94574;
  - b. R. Bruce Scarborough, M.D., 1100 Trancas Street, #209, Napa, CA 94558;
  - c. Anthony King, M.D., 980 Trancas Street, #11, Napa, CA 94558;
  - d. Dario Gambetta, M.D., 1530 Railroad Avenue, St. Helena, CA 94574;
  - e. Jerome Solomon, M.D., 1100 Trancas Street, #351, Napa, CA 94558;
  - f. Cheryl Henry, M.D., 975 Sereno Dr., Vallejo, CA 94589.
3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Respondents, and the proceeding is in the public interest.

**I.**

**IT IS ORDERED** that, as used in this Order, the following definitions shall apply:

- A. "OGMC" means Obstetrics and Gynecology Medical Corporation of Napa Valley, its officers, directors, employees, agents, representatives, successors, and assigns; and the subsidiaries, divisions, groups, and affiliates controlled by OGMC, and the respective officers, directors, employees, agents, representatives, successors, and assigns of each.
- B. "Physician Respondents" means Bryan Henry, M.D., R. Bruce Scarborough, M.D., Anthony King, M.D., Dario Gambetta, M.D., Jerome Solomon, M.D., and Cheryl Henry, M.D.
- C. "Respondents" means OGMC and the Physician Respondents.
- D. "Payor" means any person that pays, or arranges for the payment, for all or any part of any physician services for itself or for any other person.
- E.



- d. the provision of a complex or extended course of treatment that requires the substantial coordination of care by physicians in different specialties offering a complementary mix of services, for a fixed, predetermined payment, where the costs of that course of treatment for any individual patient can vary greatly due to the individual patient's condition, the choice, complexity, or length of treatment, or other factors; and
2. any agreement concerning reimbursement or other terms or conditions of dealing entered into by or within the arrangement is reasonably necessary to obtain significant efficiencies through the joint arrangement.
- J. "Qualified clinically-integrated joint arrangement" means an arrangement to provide physician services in which:
1. all physicians who participate in the arrangement participate in active and ongoing programs to evaluate and modify the practice patterns of, and create a high degree of interdependence and cooperation among, these physicians, in order to control costs and ensure the quality of services provided through the arrangement; and
  2. any agreement concerning reimbursement or other terms or conditions of dealing entered into by or within the arrangement is reasonably necessary to obtain significant efficiencies through the joint arrangement.

- B. Attempting to engage in any action prohibited by Paragraph II.A. above; and
- C. Encouraging, suggesting, advising, pressuring, inducing, or attempting to induce any person to engage in any action that would be prohibited if the person were subject to this Order.

**PROVIDED HOWEVER** that nothing in this Paragraph shall prohibit any agreement involving, or conduct by, Respondents that is reasonably necessary to form, participate in, or take any other action in furtherance of a qualified risk-sharing joint arrangement or a qualified clinically-integrated joint arrangement.

### **III.**

**IV.**

**IT IS FURTHER ORDERED** that, if OGMC fails to comply with all or any portion of Paragraph III.B. of this Order within sixty (60) days after the date on which this Order becomes final, then Physician Respondent Bryan Henry, M.D. shall, within ninety (90) days after the date on which this Order becomes final, comply with those portions of Paragraph III.B. of this Order with which OGMC did not comply.

**V.**

**IT IS FURTHER ORDERED** that each Physician Respondent shall:

- A. Within thirty (30) days after the date this Order becomes final, deliver to OGMC a list of the names, addresses, and telephone numbers of each payor who, at any time since January 1, 1999, has communicated to the Physician Respondent, or to whom the Physician Respondent has communicated, with regard to any desire, willingness, or interest of such payor in contracting for



**IX.**

**IT IS FURTHER ORDERED** that this Order shall terminate twenty (20) years from the date of issuance.

By the Commission.

Donald S. Clark  
Secretary

SEAL

ISSUED: