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**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION**

herein alleged, are in or affecting “commerce” as defined in the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

PARAGRAPH 4: Respondent has been organized in substantial part, and is engaged in substantial activities, for the pecuniary benefit of its participating physicians and is therefore a corporation within the meaning of Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

OVERVIEW OF MARKET AND PHYSICIAN COMPETITION

PARAGRAPH 5: Respondent has approximately 1,000 participating physicians who are licensed to practice medicine in the State of Texas and who are engaged in the business of providing medical services to patients in the eastern part of the Dallas-Fort Worth metropolitan area (hereinafter “Dallas area”).

PARAGRAPH 6: Physicians often contract with third-party payors to establish the terms and conditions, including price terms, under which the physicians will render services to the payors’ subscribers. Physicians entering into such contracts often agree to lower compensation to obtain access to additional patients made available by the payors’ relationship with insureds. These contracts may reduce third-party payors’ costs and enable them to lower the price of insurance, and thereby result in lower medical care costs for subscribers to the payors’ health insurance plans.

PARAGRAPH 7: Absent agreements among competing physicians on the terms, including price, on which they will provide services to subscribers or enrollees in health care plans offered or provided by third-party payors, competing physicians decide individually whether to enter into contracts with third-party payors to provide services to their subscribers or enrollees, and what prices they will accept pursuant to such contracts.

PARAGRAPH 8: Medicare’s Resource Based Relative Value System (hereinafter “RBRVS”) is a system used by the United States Centers for Medicare and Medicaid Services to determine the amount to pay physicians for the services they render to Medicare patients. The RBRVS approach provides a method to determine fees for specific services. In general, it is the practice of third-party payors in the Dallas area to make contract offers to individual physicians or groups at a fee level

of contracts between themselves and third-party payors in ways that do not constitute or facilitate an unlawful agreement on fees and other competitively significant terms. Such a messenger may not, however, consistent with a competitive model, negotiate fees and other competitively significant terms on behalf of the participating physicians, or facilitate the physicians' coordinated responses to contract offers by, for example, electing not to convey a third-party payor's offer to them based on the messenger's opinion on the appropriateness, or lack thereof, of the offer.

RESTRAINT OF TRADE

PARAGRAPH 11: Respondent, acting as a combination of competing physicians, has acted to restrain competition by, among other things:

- A. facilitating, negotiating, entering into, and implementing agreements among its participating physicians on price and other competitively significant terms;
- B. refusing to deal with third-party payors except on collectively agreed-upon terms; and
- C. negotiating uniform fees and other competitively significant terms in third-party payor contracts for Respondent's participating physicians, and refusing to submit third-party payor offers to participating physicians that do not conform to Respondent's standards for contracts.

FORMATION AND OPERATION OF SPA

PARAGRAPH 12:

PARAGRAPH 14: Physicians seeking to join Respondent apply for membership and, if qualified, are approved for membership by the SPA Board of Directors. Each physician then typically has signed a “Physician Managed Care Agreement” with SPA, authorizing SPA to negotiate non-risk contracts with third-party payors on his or her behalf.

PARAGRAPH 15: Respondent has negotiated with third-party payors the fees and other terms pursuant to which SPA’s participating physicians may render medical care to persons covered by the third-party payors. Following acceptance of a contract by Respondent, Respondent has summarized and commented to SPA’s participating physicians on the terms of that contract and offered SPA’s participating physicians an opportunity to opt in or out of the agreement.

PARAGRAPH 16: Rather than acting simply as a “messenger,” as described in Paragraph 10 of this Complaint, Respondent actively bargained with third-party payors, often proposing and counter-proposing fee schedules to be applied, among other terms. To maintain its bargaining power, Respondent has discouraged its participating physicians from entering into unilateral agreements with third-party payors. Respondent has communicated to its participating physicians the general bargaining

LACK OF SIGNIFICANT EFFICIENCIES

PARAGRAPH 19: Since March 2000, Respondent has neither sought nor been willing to enter into agreements with third-party payors in which SPA's participating physicians undertake financial risk-sharing. Further, Respondent's participating physicians have not integrated their practices to create significant potential efficiencies. Respondent's joint negotiation of fees and other competitively significant terms has not been, and is not, reasonably related to any efficiency-enhancing integration.

ANTICOMPETITIVE EFFECTS

PARAGRAPH 20: Respondent's actions described in Paragraphs 11 through 18 of this Complaint have had, or have the tendency to have, the effect of restraining trade unreasonably and hindering competition in the provision of physician services in the Dallas area in the following ways, among others:

- A. price and other forms of competition among Respondent's participating physicians were unreasonably restrained;
- B. prices for physician services were increased; and
- C. health plans, employers, and individual consumers were deprived of the benefits of competition among physicians.

PARAGRAPH 21: The combination, conspiracy, acts, and practices described above constitute unfair methods of competition in violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45. Such combination, conspiracy, acts, and practices, or the effects thereof, are continuing and will continue or recur in the absence of the relief herein requested.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this _____ day of _____, 2003, issues its Complaint against Respondent.

By the Commission.

Donald S. Clark
Secretary

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