

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

**COMMISSIONERS:**                    **Timothy J. Muris, Chairman**  
   **Mozelle W. Thompson**  
   **Orson Swindle**  
   **Thomas B. Leary**  
   **Pamela Jones Harbour**

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) <b>In the Matter of</b> )	
) <b>PIEDMONT HEALTH ALLIANCE, INC.,</b> )	<b>Docket No. 9314</b>
) <b>a corporation, et al.</b> )	
) <b>AGREEMENT CONTAINING</b> )	
) <b>CONSENT ORDER TO CEASE</b> )	
) <b>AND DESIST</b> )	

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The agreement herein (“Consent Agreement”), by and between The Federal Trade Commission (“Commission”), Piedmont Health Alliance, Inc. (“PHA”), hereinafter sometimes referred to as “Respondent PHA,” and ten individual physicians (“Physician Respondents”), together collectively hereinafter sometimes referred to as “Respondents,” by Respondent PHA’s duly authorized officers and its attorney, by Physician Respondents individually and their attorney, and counsel for the Federal Trade Commission (Commission”), is entered into in accordance with the Commission’s Rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Respondent PHA is a for-profit corporation, organized, existing, and doing business under and by virtue of the laws of the State of North Carolina, with its principal address located at 1899 Tate Boulevard, SE, Hickory, North Carolina 28602.
  
2. The Physician Respondents are physicians licensed to practice medicine in the State of North Carolina, and are shareholders in PHA. Their respective names and principal addresses are as follows:
  - A. Peter H. Bradshaw, M.D., Hickory Surgical Clinic, 415 North Center Street, Suite 102, Hickory, North Carolina 28601;
  
  - B. S. Andrews Deekens, M.D., Morganton Family Medicine, PLLC, 115 Foothills Drive, Morganton, North Carolina 28655;
  
  - C. Daniel C. Dillon, M.D., P.A., 11 13<sup>th</sup> Avenue, NE, Suite 102, Hickory, North Carolina 28601;

- D. Sanford D. Guttler, M.D., Crown Health Care, PA, d/b/a Granite Falls Primary Care Physicians, One Trade Street, Granite Falls, North Carolina 28630;
  - E. David L. Harvey, M.D., Piedmont Nephrology & Hypertension Associates, 1899 Tate Boulevard, SE, Suite 2101, Hickory, North Carolina 28602;
  - F. John W. Kessel, M.D., Fairbrook Medical Clinic, 1985 Startown Road, Hickory, North Carolina 28602;
  - G. A. Gregory Rosenfeld, M.D., Piedmont Neurosurgery, P.A., 1899 Tate Boulevard, SE, Suite 2108, Hickory, North Carolina 28602;
  - H. James R. Thompson, M.D., Caldwell Family Care Center, 212 Mulberry Street, SW, Lenoir, North Carolina 28645;
  - I. Robert A. Yapundich, M.D., Neurology Associates, P.A., 1985 Tate Boulevard, SE, Suite 600, Hickory, North Carolina 28602; and
  - J. William Lee Young III, M.D., Hickory Family Practice Associates, P.A., 52 12<sup>th</sup> Avenue, NE, Hickory, North Carolina 28601.
- 3. Respondents have been served with a copy of the Complaint issued by the Commission charging them with violations of Section 5 of the Federal Trade Commission Act, as amended, and have filed their Answer to the Complaint denying those charges but admitting certain facts.
  - 4. Respondents admit all the jurisdictional facts set forth in the Complaint.
  - 5. Respondents waive:
    - A. any further procedural steps;
    - B. the requirement that the Commission's Decision and Order, attached hereto and made a part hereof, contain a statement of findings of fact and conclusions of law;
    - C. all rights to seek judicial review or otherwise to challenge or contest the validity of the Decision and Order entered pursuant to this Consent Agreement; and
    - D. any claim under the Equal Access to Justice Act.
  - 6. This Consent Agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this Consent Agreement is accepted by the Commission, it will be placed on the public record for a period of thirty (30) days and information in respect thereto will publicly be released. The Commission thereafter

may either withdraw its acceptance of this Consent Agreement and so notify Respondents, in which event it will take such action as it may consider appropriate, or issue and serve its Decision and Order in disposition of the proceeding.

7. This Consent Agreement is for settlement purposes only and does not constitute an admission by Respondents that the law has been violated as alleged in the Complaint, or that the facts as alleged in the Complaint, other than jurisdictional facts and the facts admitted in the Respondents' Answer to the Complaint, are true.
8. 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 3.25(f), 16 C.F.R. § 3.25(f) (2004), the Commission may, without further notice to Respondents, (1) issue the attached 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 Commission orders. The Decision and Order shall become final upon service. Delivery of the Decision and Order to Respondents by any means specified in Commission Rule 4.4(a), 16 C.F.R. § 4.4(a) (2004), shall constitute service. 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.
9. Respondents have read the Decision and Order contemplated hereby. By signing this Consent Agreement, Respondents represent that they can accomplish the full relief contemplated by this Consent Agreement. 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. Respondents agree to comply with Paragraphs II, III, and V of the draft Decision and Order from the date they sign this Consent Agreement. Respondents represent that, if a payor exercises its right to terminate its preexisting contract pursuant to Paragraph VII.D of the Decision and Order, Respondent PHA has the authority to terminate that contract without obtaining the consent of any person, including, but not limited to, any member of Respondent PHA. 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.

**PIEDMONT HEALTH ALLIANCE, INC.,**  
a corporation.

By: \_\_\_\_\_  
Daniel C. Dillon, as President and Chairman of the  
Board of Piedmont Health Alliance, Inc.  
Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2004

**PHYSICIAN RESPONDENTS**

By: \_\_\_\_\_  
Peter H. Bradshaw, M.D., individually  
Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2004

By: \_\_\_\_\_  
S. Andrews Deekens, M.D., individually  
Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2004

By: \_\_\_\_\_  
Daniel C. Dillon, M.D., individually  
Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2004

By: \_\_\_\_\_  
Sanford D. Guttler, M.D., individually  
Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2004

By: \_\_\_\_\_  
David L. Harvey, M.D., individually  
Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2004

By: \_\_\_\_\_  
John W. Kessel, M.D., individually  
Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2004

By: \_\_\_\_\_

A. Gregory Rosenfeld, M.D., individually  
Signed this \_\_\_\_ day of \_\_\_\_\_, 2004

By: \_\_\_\_\_  
James R. Thompson, M.D., individually  
Signed this \_\_\_\_ day of \_\_\_\_\_, 2004

By: \_\_\_\_\_  
Robert A. Yapundich, M.D., individually  
Signed this \_\_\_\_ day of \_\_\_\_\_, 2004

By: \_\_\_\_\_  
William Lee Young III, M.D., individually  
Signed this \_\_\_\_ day of \_\_\_\_\_, 2004

\_\_\_\_\_  
Paul L. Yde, Esq.  
Freshfields Bruckhaus Deringer LLP  
Counsel for Piedmont Health Alliance, Inc. and  
the Physician Respondents  
Signed this \_\_\_\_ day of \_\_\_\_\_, 2004

**FEDERAL TRADE COMMISSION**

By: \_\_\_\_\_  
Markus H. Meier  
David M. Narrow  
Christi J. Braun  
Counsel Supporting the Complaint

**APPROVED:**

\_\_\_\_\_  
David R. Pender  
Deputy Assistant Director  
Federal Trade Commission

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Jeffrey W. Brennan  
Assistant Director  
Federal Trade Commission

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Susan A. Creighton  
Director  
Bureau of Competition  
Federal Trade Commission