

**ANALYSIS OF AGREEMENT CONTAINING  
CONSENT ORDER TO AID PUBLIC COMMENT**  
*In the Matter of Partners Health Network, Inc., File No. 041-0100*

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a proposed consent order with Partners Health Network, Inc. The agreement settles charges that Partners Health violated Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, by orchestrating and implementing agreements among members of Partners Health to fix prices and other terms on which they would deal with health plans, and to refuse to deal with such purchasers except on collectively-determined terms. The proposed consent order has been placed on the public record for 30 days to receive comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make the proposed order final.

The purpose of this analysis is to facilitate public comment on the proposed order. The analysis is not intended to constitute an official interpretation of the agreement and proposed order, or to modify their terms in any way. Further, the proposed consent order has been entered into for settlement purposes only and does not constitute an admission by Partners Health that it violated the law or that the facts alleged in the complaint (other than jurisdictional facts) are true.

### **The Complaint**

The allegations of the complaint are summarized below.

Partners Health is a physician-hospital organization consisting of approximately 225 physicians, Palmetto Health Baptist Medical Center at Easley, and Cannon Memorial Hospital.

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<sup>1</sup> Some arrangements can facilitate contracting between health care providers and payors without fostering an illegal agreement among competing physicians on fees or fee-related terms. One such approach, sometimes referred to as a “messenger model” arrangement, is described in the 1996 Statements of Antitrust Enforcement Policy in Health Care jointly issued by the Federal Trade Commission and U.S. Department of Justice, at 125. *See* <http://www.ftc.gov/reports/hlth3s.htm#9>.

agreements. The Partners Health Executive Director negotiates physician contracts with payors using a physician fee schedule that he created with input from the Partners Health physician members. This contracting process is overseen from start to finish by the Advisory Board and the Board of Directors. The Advisory Board is a 12-member committee that provides consultation to both the Board of Directors and the Executive Director during contract negotiations.

The Executive Director creates the Partners Health fee schedule by first polling the



Paragraph IV, for three years, requires Partners Health to notify the Commission before participating in contracting with health plans on behalf of a qualified risk-sharing joint arrangement, or a qualified clinically-integrated joint arrangement. The contracting discussions that trigger the notice provision may be either among physicians, or between Partners Health and health plans. Paragraph IV also sets out the information necessary to satisfy the notification requirement.

Paragraph V requires Partners Health to distribute the complaint and order to all physicians who have participated in Partners Health, and to payors that negotiated contracts with Partners Health or indicated an interest in contracting with Partners Health. Paragraph V.D requires Partners Health, at any payor's request and without penalty, or, at the latest, within one year after the order is made final, to terminate its current contracts with respect to providing physician services. Paragraph V.D. also allows any contract currently in effect to be extended, upon mutual consent of Partners Health and the contracted payor, to any date no later than one year from when the order became final. This extension allows both parties to negotiate a termination date that would equitably enable them to prepare for the impending contract termination. Paragraph V.E requires Partners Health to distribute payor requests for contract termination to all physicians who participate in Partners Health.

Paragraphs VI, VII, and VIII of the proposed order impose various obligations on Partners Health to report or provide access to information to the Commission to facilitate monitoring Partners Health's compliance with the order.

The proposed order will expire in 20 years.