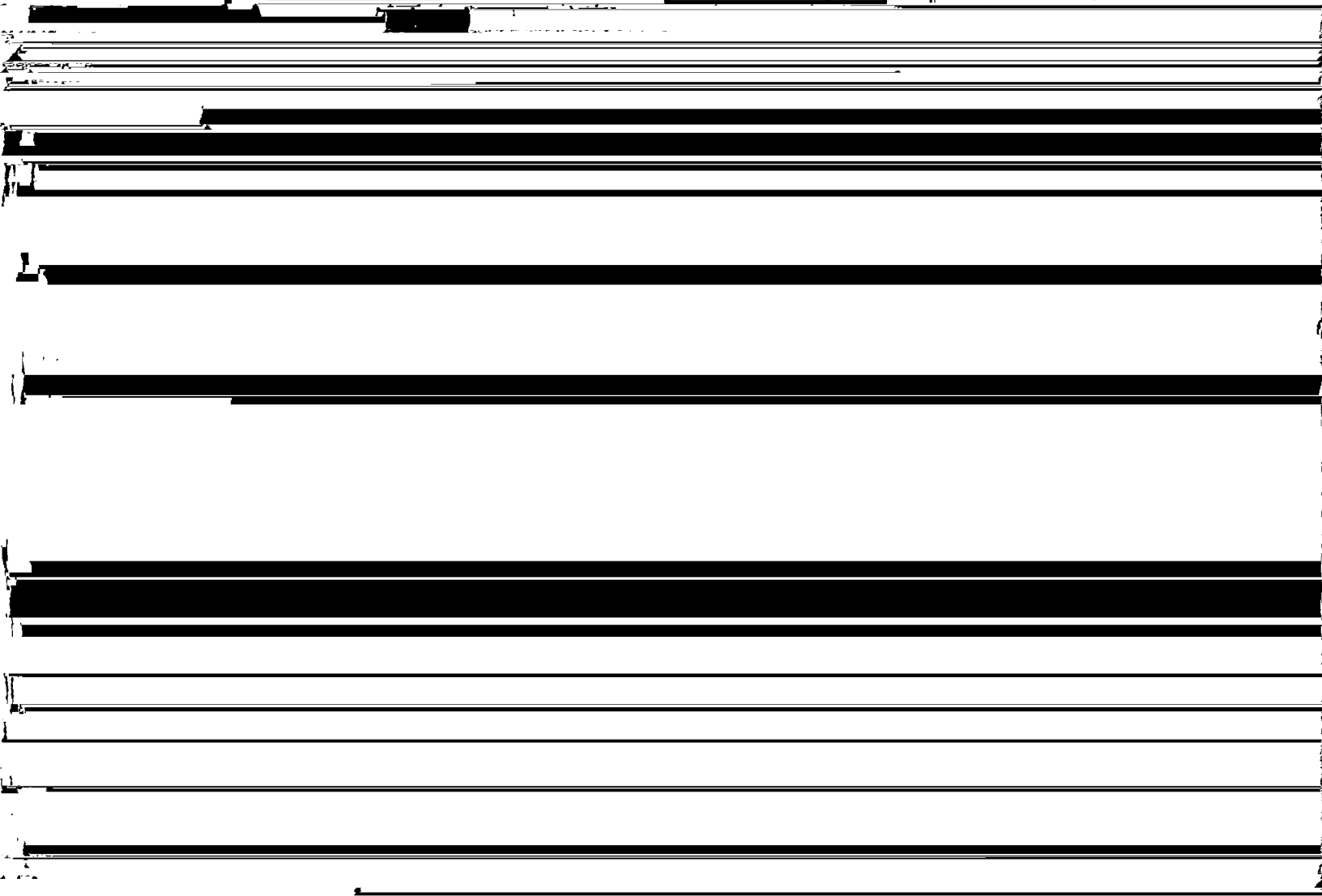




The Joint Commission on Accreditation of Healthcare Organizations (“Joint Commission”) respectfully moves, under 16 C.F.R. §3.52(j), for leave to file the accompanying *amicus curiae* brief. The purpose of it doing so is to avoid having the Federal Trade Commission inappropriately rely on certain of the Joint Commission’s activities in deciding this matter, when the Administrative Law Judge appears to have misunderstood the relevance of those activities.

The Joint Commission is an Illinois not-for-profit 501(c)(3) tax exempt corporation with the mission to help improve the quality and safety of health care. It is governed by a 29-member Board of Commissioners that includes nurses, physicians, consumers, medical directors, administrators, providers, employers, a labor representative, health plan leaders, quality experts, ethicists, a





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

	)	
	)	
In the matter of	)	Docket No. 9315
	)	
Evanston Northwestern	)	Public Record
Healthcare Corporation	)	
	)	
	)	

**ORDER**

~~Upon consideration of the Motion to Dismiss filed by~~

Accreditation of Healthcare Organizations for Leave to File Brief *Amicus Curiae*  
In Support of Evanston Northwestern Healthcare Corporation, the Commission  
finds that the proposed brief amicus curiae may assist in the determination of the  
matters presented by this appeal.

Accordingly, IT IS ORDERED that the Joint Commission on



UNITED STATES OF AMERICA

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
FEDERAL TRADE COMMISSION

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DOCKET NO. 9315

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IN THE MATTER OF

EVANSTON NORTHWESTERN HEALTHCARE CORPORATION

---

BRIEF OF *AMICUS CURIAE*  
JOINT COMMISSION ON ACCREDITATION OF  
HEALTH CARE ORGANIZATIONS

IN SUPPORT OF EVANSTON NORTHWESTERN

Interest of the Joint Commission

The Joint Commission on Accreditation of Healthcare Organizations

corporation formed pursuant to the laws of the state of Illinois with its headquarters located in Oakbrook Terrace, Illinois. Its mission is to help enhance the safety and quality of health care provided to the public. In pursuit of this mission, the Joint Commission promulgates standards it believes health care organizations should meet to best facilitate the provision of safe and high quality care. It surveys through onsite visits more than 15,000 health care organizations

Commission itself would not rely. The Joint Commission recognizes the complexity of its process, and the fact that there can be good faith misunderstandings about its accreditation implications. The Joint Commission takes very seriously its responsibility to do what it can to avoid courts or administrative agencies resolving any such misunderstandings.

**The Joint Commission's Concern**

Apparently of relevance in the case was the question whether Highland Park Hospital was a hospital of higher quality after the merger than before the merger. The Joint Commission has not engaged in any effort to



F.854. These scores are based on approximately 1200 elements of

hospital performance. F.856. In 2002, Highland Park received a JCAHO score of 94. F. 853. Accordingly, based on the JCAHO standard, there is no evidence that the overall quality of care at post-merger

Highland Park improved relative to other hospitals. In fact, Highland Park's JCAHO score declined slightly. Thus, the JCAHO evidence, at least from 1999 to 2002, does not support Respondent's argument that overall quality of care improved at Highland Park. Rather, Highland Park's overall quality of service before the merger was excellent and was not declining, as Respondent depicts. After the merger with Evanston, Highland Park continued to maintain its reputation for quality."

The bottom line is that the Joint Commission would not consider in any way the use of such "summary grid" scores cited by the Administrative Law Judge appropriate in evaluating comparative quality before and after the merger. In other words, the Joint Commission would not have done what the Administrative Law Judge did with the Joint Commission's information. A brief

for accredited hospitals used to select the worst cases of all the standards making

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5 being the worst.

system eliminated grid element and summary grid scores in an attempt to deemphasize organizations' efforts to "ramp up" or cram for the survey. Rather, the new accreditation process focuses on ongoing standards compliance, and is based primarily on the number of standards that are scored not compliant. It simplifies the compliance screening process in determining an accreditation decision, and the "grid" score is eliminated.

With regard to the earlier system in place, two questions

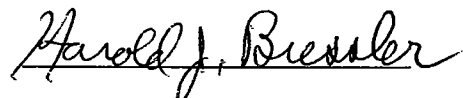
immediately arise. The first is, what was the Joint Commission's use of these scores and

what were the ranges of scores?

as to actually result in different accreditation status or categories. Different scores  
in the 2007 survey of different hospitals or of one hospital over a period of time, in the

Joint Commission's view, do not lend themselves to help determine whether one

Respectfully Submitted,

A handwritten signature in cursive script that reads "Harold J. Bressler". The signature is written in black ink and is positioned above the printed name.

Harold J. Bressler  
General Counsel  
Joint Commission on Accreditation  
of Healthcare Organizations  
One Renaissance Boulevard  
Oakbrook Terrace, Illinois 60181  
630/792-5672

**CERTIFICATE OF SERVICE**

I hereby certify that on December 16, 2005, true and correct copies of the Motion