

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS: Deborah Platt Majoras, Chairman
Pamela Jones Harbour
Jon Leibowitz
William E. Kovacic
J. Thomas Rosch

_____)
In the Matter of)
)
HEALTH CARE ALLIANCE)
OF LAREDO, L.C.,) Docket No. C-4158
a limited liability company.)
_____)

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended, 15 U.S.C. § 41 *et seq.*, and by virtue of the authority vested in it by said Act, the Federal Trade Commission (“Commission”), having reason to believe that Health Care Alliance of Laredo, L.C. (“HAL”), hereinafter sometimes referred to as “Respondent,” has violated Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues this Complaint stating its charges in that respect as follows:

Nature of the Case

1. This matter concerns agreements among competing physicians, acting through the Respondent, to fix the prices they charge to health plans and other third-party payors (“payors”), and to refuse to deal with payors except on collectively agreed upon terms. The Respondent had no legitimate justification for these agreements, which increased consumer health care costs in the Laredo, Texas, area.

Respondent

2. HAL, an independent practice association (“IPA”), is a for-profit limited liability company, organized, existing, and doing business under and by virtue of the laws of the State of Texas, with its principal address at 230 Calle Del Norte, Laredo, Texas 78041.

3. HAL contracts with payors on behalf of its member physicians and establishes uniform prices and other contract terms applicable to its members.

4. HAL members include approximately 80 physicians licensed to practice allopathic or osteopathic medicine in Texas.

5. HAL's nine-member Board of Managers consists of physicians who are elected by the HAL members to represent the members' interests in HAL's affairs.

Jurisdiction

6. At all times relevant to this Complaint, HAL has been engaged in the business of contracting with payors, on behalf of HAL's physician members, for the provision of physician services.

7. Except to the extent that competition has been restrained as alleged herein, a substantial majority of HAL physician members have been, and are now, in competition with each other for the provision of physician services in the Laredo, Texas, area.

8. HAL, a for-profit entity, is a corporation within the meaning of Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

9. The general business practices of HAL, and of its physician members, including the acts and practices herein alleged, are in or affect "commerce" as defined in the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

Overview of Physician Contracting with Payors

10. Physicians contract with payors to establish the terms and conditions, including price terms, under which they render physician services to the subscribers ("insureds") to the payors' health plans. 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 force payors to pay lower rates to physicians, thereby resulting in lower medical care costs for insureds.

Anticompetitive Conduct

me when I negotiate contracts on behalf of the organization, since I would present these codes as those for which I will seek the advantageous rates.” He also surveyed Board members and spoke to individual members in order to obtain information on fees for their respective specialties, which he used in negotiations with payors. Further, Board members were generally representative of the physician specialties within HAL, and Board members discussed the rate proposals with other members in their specialty when the rates affected their specialty.

Negotiations with United HealthCare of Texas, Inc. (“United”)

19. In the summer of 2003, United was attempting to form a physician network in the Laredo area by contracting individually with area physicians, including HAL’s physicians. When HAL learned of this, it informed United that HAL represented a number of Laredo physicians and that any rates would have to be first approved by HAL’s Board. Despite being warned by United of the antitrust ramifications of such joint negotiations, HAL negotiated the rates with United’s local representative and sent United’s offer to HAL members, many of whom accepted it, only after HAL’s Board approved United’s offer.

20. HAL’s President later sent a memo to members urging them not to sign individual contracts with Aetna, noting that members should let HAL work on Aetna “similar to what we did with UNITED HEALTHCARE where they were offering . . . individual contracts, but we worked out [a] group contract” at rates that were 30% higher than United’s individual contract offers.

Contracting with Other Payors

28. HAL, on behalf of its physician members, has also orchestrated collective negotiations with other payors who do business, or have attempted to do business, in the Laredo, Texas, area, including Preferred Health Arrangement, Inc.; TML Intergovernmental Employee Benefits Pool; Humana; HealthSmart Preferred Care, Inc.; Advantage Care Network, Inc.; COASTALCOMP HEALTHNETWORKS®; MultiPlan, Inc.; National Healthcare Alliance, Inc.; Texas True Choice, Inc.; Texas Employers Associated Medical Services, Inc.; and Private Healthcare Systems, Inc. HAL negotiated with these payors on price, making proposals and counter-proposals, as well as accepting or rejecting offers, without transmitting the payors' offers to HAL members until HAL's Board of Managers approved the negotiated prices.

29. These coercive tactics were successful in raising the prices paid to HAL's physician members.

Respondent's Price-Fixing Is Not Justified

30. The physician members of HAL have not integrated their practices in any economically significant way, nor have they created efficiencies sufficient to justify their acts or practices described in the foregoing paragraphs 13 through 29.

Respondent's Actions Have Had Substantial Anticompetitive Effects

31. Respondent's actions described in Paragraphs 13 through 29 of this Complaint have had, or tend to have had, the effect of restraining trade unreasonably and hindering competition in the provision of physician services in the Laredo area in the following ways, among others:

- a. price and other forms of competition among physician members of HAL 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.

Violation of the Federal Trade Commission Act

32. The combination, conspiracy, acts, and practices descri