

8. Respondent Advocate Lutheran General Health Partners, Inc. is a not-for-profit corporation, organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its principal address at c/o Health Partners Operations - Advocate Health Partners, 1661 Feehanville, Suite 200, Mount Prospect, IL 60058.
9. Respondent Advocate-South Suburban Health Partners is a not-for-profit corporation, organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its principal address at c/o Health Partners Operations - Advocate Health Partners, 1661 Feehanville, Suite 200, Mount Prospect, IL 60058.
10. Respondent Advocate Trinity Health Partners is a not-for-profit corporation, organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its principal address at c/o Health Partners Operations - Advocate Health Partners, 1661 Feehanville, Suite 200, Mount Prospect, IL 60058.
11. Respondent Dreyer Clinic, Inc. is a for-profit corporation, organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its principal address at 1877 West Downer Place, Aurora, IL 60506.
12. Advocate Health and Hospitals Corporation is a not-for-profit corporation, organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its principal address at 2025 Windsor Drive, Oak Brook, IL 60523.
13. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Respondents, and the proceeding is in the public interest.

ORDER

I.

IT IS ORDERED that, as used in this Order, the following definitions shall apply:

- A. “Respondent AHP” means AHP, its officers, directors, employees, agents, attorneys, representatives, successors, and assigns; and the subsidiaries, divisions, groups, and affiliates controlled by it, and the respective officers, directors, employees, agents, attorneys, representatives, successors, and assigns of each.
- B. “Respondent Advocate Bethany Health Partners” means Advocate Bethany Health Partners, its officers, directors, employees, agents, attorneys, representatives, successors, and assigns; and the subsidiaries, divisions, groups, and affiliates controlled by it, and the respective officers, directors, employees, agents, attorneys, representatives, successors, and assigns of each.
- C. “Respondent Advocate Christ Hospital Health Partners” means Advocate Christ Hospital Health Partners, its officers, directors, employees, agents, attorneys, representatives, successors, and assigns; and the subsidiaries, divisions, groups, and affiliates controlled

by it, and the respective officers, directors, employees, agents, attorneys, representatives, successors, and assigns of each.

- D. “Respondent Advocate Good Samaritan Health Partners, Ltd.” means Advocate Good Samaritan Health Partners, Ltd., its officers, directors, employees, agents, attorneys, representatives, successors, and assigns; and the subsidiaries, divisions, groups, and affiliates controlled by it, and the respective officers, directors, employees, agents, attorneys, representatives, successors, and assigns of each.
- E. “Respondent Advocate Good Shepherd Health Partners, Ltd.” means Advocate Good Shepherd Health Partners, Ltd., its officers, directors, employees, agents, attorneys, representatives, successors, and assigns; and the subsidiaries, divisions, groups, and affiliates controlled by it, and the respective officers, directors, employees, agents, attorneys, representatives, successors, and assigns of each.
- F. “Respondent Advocate Health Centers, Inc.” means Advocate Health Centers, Inc. its officers, directors, employees, agents, attorneys, representatives, successors, and assigns; and the subsidiaries, divisions, groups, and affiliates controlled by it, and the respective officers, directors, employees, agents, attorneys, representatives, successors, and assigns of each.
- G. “Respondent Advocate Illinois Masonic Health Partners” means Advocate Illinois Masonic Health Partners, its officers, directors, employees, agents, attorneys, representatives, successors, and assigns; and the subsidiaries, divisions, groups, and affiliates controlled by it, and the respective officers, directors, employees, agents, attorneys, representatives, successors, and assigns of each.
- H. “Respondent Advocate Lutheran General Health Partners, Inc.” means Advocate Lutheran General Health Partners, Inc., its officers, directors, employees, agents, attorneys, representatives, successors, and assigns; and the subsidiaries, divisions, groups, and affiliates controlled by it, and the respective officers, directors, employees, agents, attorneys, representatives, successors, and assigns of each.
- I. “Respondent Advocate-South Suburban Health Partners” means Advocate-South Suburban Health Partners, its officers, directors, employees, agents, attorneys, representatives, successors, and assigns; and the subsidiaries, divisions, groups, and affiliates controlled by it, and the respective officers, directors, employees, agents, attorneys, representatives, successors, and assigns of each.
- J. “Respondent Advocate Trinity Health Partners” means Advocate Trinity Health Partners, its officers, directors, employees, agents, attorneys, representatives, successors, and assigns; and the subsidiaries, divisions, groups, and affiliates controlled by it, and the respective officers, directors, employees, agents, attorneys, representatives, successors, and assigns of each.

- K. “Respondent Dreyer Clinic, Inc.” means Dreyer Clinic, Inc., its officers, directors, employees, agents, attorneys, representatives, successors, and assigns; and the subsidiaries, divisions, groups, and affiliates controlled by it, and the respective officers, directors, employees, agents, attorneys, representatives, successors, and assigns of each.
- L. “Advocate Health and Hospitals Corporation” means Advocate Health and Hospitals Corporation, its officers, directors, employees, agents, attorneys, representatives, successors, and assigns; and the subsidiaries, divisions, groups, and affiliates controlled by it, and the respective officers, directors, employees, agents, attorneys, representatives, successors, and assigns of each.
- M. “Advocate Hospital” means Advocate Bethany Hospital, Advocate Christ Medical Center, Advocate Good Samaritan Hospital, Advocate Good Shepherd Hospital, Advocate Illinois Masonic Medical Center, Advocate Lutheran General Hospital, Advocate South Suburban Hospital, or Advocate Trinity Hospital.
- N. “Advocate System Physicians” means those physicians whose physician services are provided to payors by Advocate Health and Hospitals Corporation, Advocate Health Centers, Inc., or Dreyer Clinic, Inc. and for which such entity receives all financial remuneration from the payor for the physician services.
- O. “Non-exclusive arrangement” means an arrangement that does not restrict the ability of, or facilitate the refusal of, physicians who participate in it to deal with payors on an individual basis or through any other arrangement.
- P. “Medical group practice” means a bona fide, integrated firm in which physicians practice medicine together as partners, shareholders, owners, or employees, or in which only one physician practices medicine.
- Q. “Participate” in an entity or an arrangement means (1) to be a partner, shareholder, owner, member, or employee of such entity or arrangement, or (2) to provide services, agree to provide services, or offer to provide services to a payor through such entity or arrangement. This definition applies to all tenses and forms of the word “participate,” including, but not limited to, “participating,” “participated,” and “participation.”
- R. “Payor” means any person that pays, or arranges for payment, for all or any part of any physician services for itself or for any other person, as well as any person that develops, leases, or sells access to networks of physicians.
- S. “Person” means both natural persons and artificial persons, including, but not limited to, corporations, unincorporated entities, and governments.
- T. “Physician” means a doctor of allopathic medicine (“M.D.”), a doctor of osteopathic medicine (“D.O.”), or a doctor of podiatric medicine (“D.P.M.”).

- U. “Preexisting contract” means a contract for the provision of physician services that was in effect on the date of the receipt by a payor that is a party to such contract of notice sent by Respondent AHP pursuant to Paragraph V.A.2. of this Order, or by any Respondent pursuant to Paragraph VII. of this Order, of such payor’s right to terminate such contract.
- V. “Principal address” means either (1) primary business address, if there is a business address, or (2) primary residential address, if there is no business address.
- W. The “Program” means the non-exclusive arrangement that AHP refers to as its Clinical Integration Program, which was implemented by AHP on January 1, 2004, with respect to fee-for-service contracts with payors, and which requires participating physicians to agree to adhere to certain health care information technology, quality, and cost/utilization initiatives, as well as to being monitored and subjected to a system of enforcement mechanisms consisting of financial incentives and sanctions, including termination from the Program; *provided further*, that the Program includes modifications to those initiatives and those monitoring and enforcement mechanisms that are related to improving quality of care or reducing health care costs.
- X. “Qualified clinically-integrated joint arrangement” means an arrangement to provide physician services in which:
 - 1. all physicians who participate in the arrangement participate in active and ongoing programs of the arrangement to evaluate and modify the practice patterns of, and create a high degree of interdependence and cooperation among, the physicians who participate in the arrangement, in order to control costs and ensure the quality of services provided through the arrangement; and
 - 2. any agreement concerning priceem

(c) the absence of notice that the proposed arrangement has been rejected, regardless of a request for additional information, shall not be construed as a determination by the Commission, or its staff, that the proposed arrangement has been approved;

(d) receipt by the Commission of any Paragraph III. Notification is not to be construed as a determination by the Commission, or its staff, that the proposed arrangement does or does not violate this Order or any law enforced by the Commission; and

(e) Paragraph III. Notification shall not be required prior to participating in any arrangement described at Paragraph III. of this Order pursuant to: (i) the Program; (ii) an arrangement solely involving Advocate System Physicians; or (iii) participation in any arrangement for which Paragraph III. Notification has previously been given.

IV.

IT IS FURTHER ORDERED that for three (3) years from the date this Order becomes final, pursuant to each qualified arrangement in which any Respondent is a participant, that Respondent shall notify the Secre

- f. all studies, analyses, and reports that were prepared for the purpose of evaluating or analyzing competition for physician services in any relevant market,

- c. each current officer, director, and manager of Advocate Health and Hospitals Corporation, Advocate Health Centers, Inc., or Dreyer Clinic, Inc.; and
 - 2. first-class mail, return receipt requested, and with the letter attached as Appendix 1 to this Order, to the chief executive officer of each payor with whom any Respondent has a record of being in contact since January 1, 2001, regarding contracting for the provision of physician services; *provided, however*, that a copy of Appendix 1 need not be included in the mailings to those payors identified at Appendix 2.
- B. Terminate, without penalty or charge, and in compliance with any applicable laws, any preexisting contract with any payor for the provision of provider services, excluding those payors identified at Appendix 2, at the earlier of: (1) receipt by Respondent AHP of a written request to terminate such contract from any payor that is a party to the contract, or (2) the earliest termination date, renewal da

Respondent, within thirty (30) days of the time that he or she assumes such position; and

- d. each person who becomes an officer, director, or manager of Advocate Health and Hospitals Corporation, Advocate Health Centers, Inc., or Dreyer Clinic, Inc., and who did not previously receive a copy of this Order and Complaint from a Respondent, within thirty (30) days of the time that he or she assumes such position; and
2. Annually publish in any official report or newsletter sent to all physicians who participate in any Respondent, excluding Advocate System Physicians, a copy of this Order and the Complaint with such prominence as is given to regularly featured articles.
- E. Notify the Commission at least thirty (30) days prior to any proposed: (1) dissolution of any Respondent; (2) acquisition, merger, or consolidation of any Respondent; or (3) other change in any

with each portion of Paragraph V. and Paragraph VI. of this Order with which Respondent AHP did not comply, with regard to that Respondent.

VIII.

IT IS FURTHER ORDERED that, for three (3) years from the date this Order becomes final, each Respondent shall notify the Commission of any change in its respective principal address within twenty (20) days of such change in address.

IX.

IT IS FURTHER ORDERED that, for the purpose of determining or securing compliance with this Order, including but not limited to the implementation of the Program:

- A. Respondents shall permit any duly authorized representative of the Commission access, during office hours and in the presence of counsel, ~~to all facilities~~ and access to inspectmm

Appendix 1

[letterhead of AHP]

[name of payor's CEO]
[address]

Dear _____:

Enclosed is a copy of a complaint and a consent order ("Order") issued by the Federal Trade Commission against Advocate Health Partners ("AHP") and others.

Pursuant to Paragraph V.B. of the Order, AHP must allow you to terminate, upon your written request, without any penalty or charge, any contracts with AHP that are in effect as of the date you receive this letter.

If you do not make a written request to terminate the contract, Paragraph V.B. further provides that the contract will terminate on the earlier of the contract's termination date, renewal date (including any automatic renewal date), or anniversary date, which is [date].

You may, however, ask AHP to extend the contract beyond [date], the termination, renewal, or anniversary date, to any date no later than [date], one (1) year after the date the Order becomes final.

If you choose to extend the term of the contract, you may later terminate the contract at any time.

Any request either to terminate or to extend the contract should be made in writing, and sent to me at the following address

Appendix 3

Document and Data Request

1. In mutually agreeable electronic format:
 - a. for each physician, each medical group practice, and any other aggregation of physicians participating in the Program for which data relevant to performance in the Program is collected, data sufficient to determine such performance for each measurement of performance analyzed by AHP pursuant to the Program. Such measurements of performance may include, but are not limited to any reports or report cards that compare physician performance against benchmarks or guidelines/protocols. Production of the AHP Clinical Integration Program Database will satisfy this requirement, provided that such database is in substantially the same format and contains substantially the same fields of data as the AHP Clinical Integration Program Database provided to Commission staff by letter dated June 30, 2006.
 - b. for each physician participating in the Program, his or her (i) medical group practice name; (ii) practice location; (iii) specialty; (iv) AHP's identification number used to track or report performance under the Program; and (v) affiliation with a physician-hospital organization or any other group whose performance is analyzed under the Program. Production of the AHP Provider Relations Database will satisfy this requirement, provided that such database is in substantially the same format and contains substantially the same fields of data as the AHP Provider Relations Database provided to Commission staff by letter dated June 30, 2006.
 - c. with regard to the incentive funds under the Program: (i) data sufficient to determine the amounts to be allocated, paid, and withheld for (a) each physician and (b) each group of physicians whose performance is analyzed under the Program on a group or aggregated basis; and (ii) documents, data, or a written explanation sufficient to determine the method of and formulas used in calculating such amounts and the numerical inputs for each physician or group of physicians. Production of the AHP Annual Clinical Integration Incentive Distribution Report will satisfy this requirement, provided that such report is in substantially the same format and contains substantially the same fields of data as the AHP Annual Clinical Integration Incentive Distribution Report provided to Commission staff by letter dated June 30, 2006.
2. All documents in the nature of strategic and business plans and budgets which relate to the Program.
3. Documents sufficient to identify all changes to the Program.
4. All analyses of the Program or of physician performance under the Program that are published or provided to: (i) payors; and (b) Respondents' Boards of Directors.

5. For those measurements of performance analyzed by AHP under the Program, any data or documents created or maintained in the ordinary course of business that compare the performance of physicians participating in the Program and who have medical staff privileges at an Advocate Hospital with the performance of all other physicians with medical staff privileges at the same Advocate Hospital.
6. For each measurement of performance analyzed by AHP under the Program, any data or documents created or maintained in the ordinary course of business that compare the performance of physicians under the Program with the performance of those physicians under any capitated contracts.
7. Data reflecting the performance of physicians under clinical quality initiatives conducted by AHP under its agreement with HMO Illinois.