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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

PLAINTIFF,

v.

UTAH SOCIETY FOR HEALTHCARE
HUMAN RESOURCES ADMINISTRATION;
UTAH HOSPITAL ASSOCIATION;
ST. BENEDICT'S HOSPITAL;
IHC HOSPITALS, INC.;
HOLY CROSS HOSPITAL OF
SALT LAKE CITY;
PIONEER VALLEY HOSPITAL, INC.;
LAKEVIEW HOSPITAL, INC.;
MOUNTAIN VIEW HOSPITAL, INC.;
BRIGHAM CITY COMMUNITY HOSPITAL, INC.; and
HCA HEALTH SERVICES OF UTAH, INC.
d/b/a ST. MARK'S HOSPITAL,

DEFENDANTS.

Civil Action No.
94C282G

COMPLAINT FOR
EQUITABLE RELIEF
FOR VIOLATIONS OF
15 U.S.C. § 1,
SHERMAN ANTITRUST ACT

Filed: March 14, 1994

COMPLAINT

The United States of America, plaintiff, by its attorneys, acting under the direction of the Attorney General of the United States, brings this civil action to obtain equitable relief against the above-named defendants and complains and alleges as follows:

I.

JURISDICTION AND VENUE

1. The United States files this Complaint under the Sherman Act, Section 4 (15 U.S.C. § 4), to prevent and restrain the recurrence of defendants' violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

2. Defendants maintain offices, transact business, and are found within the District of Utah.

II.

DEFENDANTS AND CO-CONSPIRATORS

3. The Utah Society for Healthcare Human Resources Administration ("USHHRA") is a professional association comprised of human resource directors from most or all of the hospitals in Utah, including the hospital defendants. USHHRA is the state chapter of the American Society for Healthcare Human Resources Administration which, in turn, is affiliated with the American Hospital Association.

4. The Utah Hospital Association ("UHA") is a trade association comprised of most or all the hospitals in Utah, including the hospital defendants. The UHA is the state chapter of the American Hospital Association.

5. St. Benedict's Hospital ("St. Benedict's"), owned and operated by Holy Cross Health Services of Utah, is a 239-bed general, acute-care hospital in Weber County, Utah, that employs approximately 271 registered nurses.

6. IHC Hospitals, Inc. ("IHC") is a wholly-owned subsidiary of Intermountain Health Care, Inc., a nonprofit corporation headquartered in Salt Lake City, Utah, that owns and operates 20 hospitals in Utah and two each in Wyoming and Idaho. IHC owns five acute-care hospitals in Salt Lake County, Utah, totaling 918 beds and employing approximately 2,930 registered nurses. In 1992, IHC had assets worth approximately \$5.5 billion and approximately \$973 million in annual revenues. It is the largest healthcare provider in Utah and in Salt Lake County, Utah.

7. Holy Cross Hospital of Salt Lake City ("Holy Cross"), owned and operated by Holy Cross Health Services of Utah, is a 200-bed general, acute-care hospital in Salt Lake County, Utah, that employs approximately 200 registered nurses.

8. Pioneer Valley Hospital, Inc. ("Pioneer Valley"), owned and operated by HealthTrust, Inc. - The Hospital Company ("HTI"), is a 128-bed general, acute-care hospital in Salt Lake County, Utah, that employs approximately 90 registered nurses.

9. Lakeview Hospital, Inc. ("Lakeview"), owned and operated by HTI, is a 128-bed general acute-care hospital in Davis County, Utah, that employs approximately 134 registered nurses.

10. Mountain View Hospital, Inc. ("Mountain View"), owned and operated by HTI, is a 118-bed general, acute-care hospital in Utah County, Utah, that employs approximately 122 registered nurses.

11. Brigham City Community Hospital, Inc. ("Brigham City"), owned and operated by HTI, is a 44-bed general, acute-care hospital in Box Elder County, Utah, that employs approximately 50 registered nurses.

12. HCA Health Services of Utah, Inc., d/b/a St. Mark's Hospital ("St. Mark's") owns and operates St. Mark's Hospital, a 233-bed general, acute-care hospital in Salt Lake County, Utah, and employs approximately 330 registered nurses.

13. As used in this Complaint, "hospital defendants" means St. Benedict's, IHC, Holy Cross, Pioneer Valley, Lakeview, Mountain View, Brigham City, and St. Mark's.

14. Other persons, not charged as defendants, have participated as co-conspirators with defendants in the violation alleged in this Complaint, and have performed acts and made statements in furtherance of the violation.

15. Whenever this Complaint refers to any corporation's act, deed, or transaction, it means that such corporation engaged in the act, deed, or transaction by or through its

officers, directors, agents, employees, or other representatives while they actively were engaged in the management, direction, control, or transaction of its business or affairs.

III.

TRADE AND COMMERCE

16. Throughout the conspiracy, the hospital defendants treated patients originating from outside Utah at the hospitals' acute-care facilities in Utah. Registered nurses provided much of this care. The defendants' conduct alleged in this Complaint substantially affected the care given to these patients and the amount of money these patients or insurance companies paid to the hospitals for this care.

17. Throughout the conspiracy, insurance companies paid substantial revenues from outside Utah to each hospital defendant to treat patients at the hospital's acute-care facilities in Utah. Also, the United States Government sent substantial funds from outside Utah to each hospital defendant to treat federal government employees and Medicare and Medicaid recipients at the hospital's acute-care facilities in Utah. The defendants' conduct alleged in this Complaint substantially affected the care that registered nurses provided these patients and the amounts of money in interstate commerce paid to the hospital defendants for this care.

18. Throughout the conspiracy, the hospital defendants purchased from out-of-state vendors substantial amounts of supplies that were shipped into Utah and used by registered nurses to treat patients. The defendants' conduct alleged in this Complaint substantially affected the volume of these supplies purchased in interstate commerce.

19. Throughout the conspiracy, IHC adopted and paid the same registered-nurse entry wages at its Idaho and Wyoming facilities as it did at its Utah facilities. The defendants' conduct alleged in this Complaint directly affected IHC's wages in states other than Utah, which affected the revenues flowing from IHC's out-of-state facilities into Utah.

20. The acts and practices of the defendants and co-conspirators that are the subject of this Complaint were within the flow of, and had a substantial effect on, interstate commerce.

IV.

BACKGROUND OF THE CONSPIRACY

21. Throughout the conspiracy, the Salt Lake County market for acute-care registered nurses was highly concentrated. The hospital defendants located in Salt Lake County, Utah, employed approximately 75% of the registered nurses working in the County. IHC, the dominant provider of general, acute-care hospital services in Salt Lake County, employed approximately 60% of the acute-care registered nurses in this market.

22. Adequate supplies of registered nurses were vital to each hospital defendant's operations. The hospital defendants competed with each other in the recruitment and employment of registered nurses in Salt Lake County, Utah, or in other areas in Utah. Each hospital defendant tried to hire a full, high-quality nursing staff at the lowest possible cost.

23. Each hospital defendant paid registered nurses an hourly wage set by its human resource department and approved by its administration. Each hospital based its entire registered-nurse salary structure on its registered-nurse entry wage, and determined its registered nurses' hourly wages through formulas that provided for increases above the entry wage based on a registered nurse's experience.

24. From 1984 through 1992, the hospital defendants faced a critical shortage of registered nurses. Each hospital defendant's ability to attract and hire entry-level registered nurses depended on that hospital's hourly wage. Each hospital defendant feared that if its entry wage was lower than its competitors', the hospital would have had difficulty recruiting entry-level registered nurses.

v.

VIOLATION ALLEGED

25. Beginning at least as early as January, 1984, and continuing through June, 1992, defendants and co-conspirators agreed to exchange nonpublic prospective and current

information about overall budgets, nursing budgets, and registered-nurse entry wages with the purpose and effect of stabilizing registered-nurse entry wages and limiting the amount and frequency of registered-nurse entry wage increases in Salt Lake County, Utah, in violation of the Sherman Act, Section 1, 15 U.S.C. § 1. This offense is likely to recur unless the requested relief is granted.

26. To form and effectuate this combination and conspiracy, the hospital defendants and co-conspirators, through USHHRA, the UHA, and otherwise, did the following things, among others:

- (a) agreed to exchange prospective and current nonpublic information about registered-nurse entry wages and the timing and frequency of wage increases;
- (b) exchanged prospective and current information in frequent telephone calls, regular USHHRA meetings, and through the UHA's and IHC's annual, published salary surveys;
- (c) used the prospective and current wage information to set and limit registered-nurse entry wages; and
- (d) monitored each other's registered-nurse entry wages.

27. The combination and conspiracy had the following effects, among others:

- (a) unreasonably restrained wage competition for the purchase of registered-nursing services;
- (b) deprived registered nurses of the benefits of free and open competition in the purchase of registered-nursing services;
- (c) stabilized registered-nurse entry wages;
- (d) resulted in smaller annual increases in the registered-nurse entry wage, as well as the hourly wage paid to registered nurses at all levels of experience, than would have been paid absent the combination and conspiracy; and
- (e) promoted interdependent wage setting strategies among the hospital defendants.

VI.

REQUESTED RELIEF

WHEREFORE, plaintiff requests:

1. That the Court adjudge and decree that defendants and co-conspirators engaged in an unlawful combination and conspiracy in violation of Section 1 of the Sherman Act.

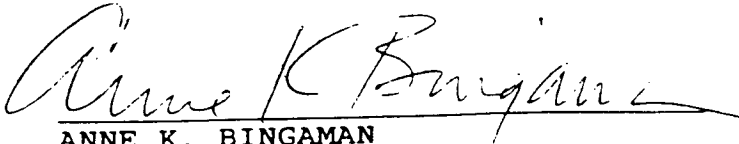
2. That defendants, their officers, directors, agents, employees, and successors and all other persons acting or claiming to act on their behalf be enjoined and restrained for a period of 5 years from:

- (a) agreeing with any other hospital to fix, establish, lower, stabilize, or maintain any compensation provided to nurses; and
- (b) disseminating among themselves or to any other hospital information concerning any planned, contemplated, or current wage or wage increase for nurses or the timing or frequency of such increases.

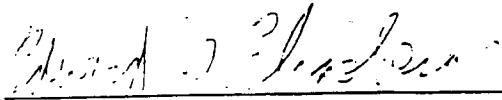
3. That each defendant, for the term of the Final Judgment, shall file with plaintiff on or before the anniversary date of the Final Judgment, an annual Declaration reporting that such defendant has complied with the terms of the Final Judgment and has had no communications of the type prohibited by the Final Judgment.

4. That plaintiff have such other and further relief as the nature of the case may require and the Court may consider just and proper.

DATED: March 14, 1994



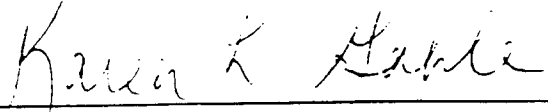
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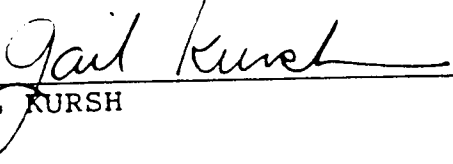
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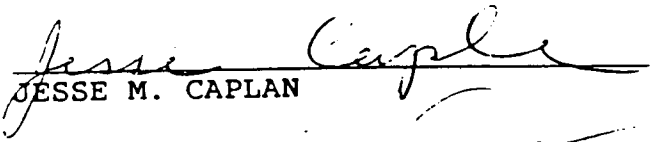
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