



# Department of Justice

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**MASSACHUSETTS ALLERGY SOCIETY AND FOUR DOCTORS**  
**CHARGED WITH PRICE FIXING**

WASHINGTON, D.C. -- The Department of Justice today filed a civil antitrust suit charging the Massachusetts Allergy Society Inc. (MAS) and four doctors with violating the Sherman Act by conspiring to fix and raise fees paid for allergy services by certain health maintenance organizations (HMO) in Massachusetts.

At the same time the suit was filed, a consent decree that would settle the suit against MAS and three of the individual defendants was also filed. The complaint and proposed consent decree were filed in the U.S. District Court in Boston.

The individual defendants, Wilfred N. Beaucher, Jack E. Farnham, Bernard A. Berman, and Irving W. Bailit, are allergists practicing in Massachusetts and members of MAS. MAS, Beaucher, Farnham and Bailit signed the decree.

James F. Rill, Assistant Attorney General in charge of the Antitrust Division, said, "This case demonstrates the Justice Department's high priority in investigating and prosecuting agreements between competing health-care providers that frustrate efforts to contain health-care costs."

According to the complaint, the defendants and co-conspirators combined and conspired to, among other things, agree

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to have MAS act as their joint negotiating agent to obtain higher fees from certain HMOs for allergy services, resist competitive pressures to discount fees and develop and adopt a fee schedule for MAS to use in negotiating higher fees on their behalf from certain HMOs.

The complaint said the conspiracy began as early as October 1984 and continued at least until the date of the complaint.

The proposed consent decree enjoins MAS from entering into any agreement or understanding concerning any fee regarding an allergy or allergy-related service, either on its own behalf or as a representative of any physician, with any third party payer. It also enjoins MAS from advocating or recommending that any physician withdraw from or refuse to enter into an agreement with any third party payer.

The consent decree further prohibits MAS from developing, adopting, or distributing any fee schedule or relative value scale for any use with any third party payer, except where it is provided to a third party payer solely for informational purposes, the third party payer indicates in writing a specific request for that information, and MAS at the time of transmitting the fee schedule or relative value scale expressly states in writing that the payer is not required to accept or adopt it.

The consent decree provides that the court may impose a civil fine upon MAS for a violation of these provisions without

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any showing of willfulness or intent and also requires MAS to institute a comprehensive antitrust compliance program.

The consenting physician defendants are similarly enjoined from discussing with or submitting to any third party payer any fee regarding any allergy or allergy-related services on behalf of MAS or, except in very limited circumstances, as an agent for any other physician, and must submit annual written certifications regarding compliance with the decree.

Public comment on the proposed decree is invited within the statutory 60-day comment period. Interested persons may address comments to Robert E. Bloch, Chief, Professions and Intellectual Property Section, Antitrust Division, U.S. Department of Justice, 555 Fourth Street, N.W., Room 9903, Judiciary Center Building, Washington, D.C. 20001 (202/307-0467).

MAS is a professional association of about 55 medical doctors practicing in Massachusetts who specialize in the treatment of allergies. Most of the allergists practicing in Massachusetts are members of MAS.

An HMO is an entity that, for a set premium, provides comprehensive health care services to its members through designated providers who contract with the HMO.

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