



Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, OCTOBER 22, 2001
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AT
(202) 514-2007
TDD (202) 514-1888

FEDERATION OF PHYSICIANS AND DENTISTS AGREES TO STOP ILLEGAL JOINT NEGOTIATIONS CHALLENGED BY JUSTICE DEPARTMENT LAWSUIT

WASHINGTON, D.C. -- The Department of Justice reached a settlement today with the Federation of Physicians and Dentists which will stop the national organization from engaging in illegal joint contract negotiations or boycotts seeking to force health plans to pay increased physician fees.

The settlement, filed today in U.S. District Court in Delaware, if approved by the court, would resolve the Department's lawsuit filed August 12, 1998 alleging that the Federation and its orthopedic members in Delaware engaged in those unlawful anticompetitive activities. The settlement would apply to the Federation's future operations throughout the United States.

In its suit, the Department alleged that the Federation had recruited nearly all of the private practice orthopedic surgeons in Delaware as members, who then agreed to designate the Federation's executive director as their agent to negotiate the fee levels they would accept from Blue Cross & Blue Shield of Delaware. When Blue Cross declined to negotiate with the doctors through the Federation, the Federation and others persuaded the doctors to deal with Blue Cross only through the Federation, and ultimately organized nearly all of its member orthopedists to terminate their contracts with Blue Cross in the belief that such action would force Blue Cross to accede to their fee demands.

“The Antitrust Division is committed to stopping illegal boycotts that harm the public and ultimately increase the prices that consumers pay for health care,” said Charles A. James, Assistant Attorney General in charge of the Department’s Antitrust Division.

Today’s settlement does not prohibit any legitimate negotiating activities of the Federation, such as operating as a certified collective bargaining agent for doctors who work as employees of public hospitals and other entities. It allows the Federation to serve as a “third-party messenger” in negotiations between independent physicians and health insurance plans, provided that the Federation abides by restrictions on such activities. The complaint in this case charged that the Federation went well beyond acting as a messenger and instead facilitated illegal collusion by doctors to maintain high fee levels.

The proposed consent decree is nationwide in scope and prohibits the Federation from participating in, encouraging, or facilitating any agreement or understanding between competing physicians or from negotiating, collectively or individually, on behalf of competing physicians about any payer contract or contract term. The Federation is also prohibited from making recommendations to competing physicians about any payer contract or contract term, communicating competitively sensitive information to competing physicians, discouraging physicians from making an independent business judgment whether to deal directly with payers, or encouraging or facilitating any agreement between competing physicians to deal with any payer exclusively through a third-party messenger. In addition, the Federation must institute an antitrust compliance program to prevent the recurrence of the conduct alleged in the Complaint.

The proposed consent decree will be published by the Federal Register, along with the Department’s Competitive Impact Statement, as required by the Antitrust Procedures and

Penalties Act. Any person may submit written comments concerning the proposed consent decree within 60 days of its publication to Gail Kursh, Chief, Health Care Task Force, Antitrust Division, U.S. Department of Justice, 325 7th Street, N.W., Room 404, Washington, D.C. 20530 (Tel.: (202) 307-5799). At the conclusion of the 60-day comment period, the Court may enter the proposed consent decree upon a finding that it serves the public interest.

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