UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

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| UNITED STATES OF AMERICA, and STATE OF CONNECTICUT, ex rel., RICHARD BLUMENTHAL, ATTORNEY GENERAL,<br><br>Plaintiffs,<br><br>vs.<br><br>HEALTHCARE PARTNERS, INC., DANBURY AREA IPA, INC., and DANBURY HEALTH SYSTEMS, INC.,<br><br>Defendants. | Civil Action No: 395-CV-01946RNC<br><br>15 U.S.C. §§ 1, 2 (Antitrust Violations Alleged)<br><br>15 U.S.C. §§ 4, 26 (Equitable Relief Sought)<br><br>Filed: September 13, 1995 |

COMPLAINT

The United States of America and the State of Connecticut, by their attorneys and acting under the direction of the Attorney General of the United States and the Attorney General of the State of Connecticut, bring this civil antitrust action to obtain equitable relief against the defendants named herein and complain and allege as follows:

I.

JURISDICTION AND VENUE

1. This Complaint is filed by the United States under Section 4 of the Sherman Act, 15 U.S.C. § 4, as amended, and by the State of Connecticut under Section 16 of the Clayton Act, 15 U.S.C. § 26, to prevent and restrain continuing violations by the defendants of Sections 1 and 2 of the Sherman Act, 15 U.S.C. §§ 1, 2. The jurisdiction of the Court is also invoked under 28 U.S.C. §§ 1331, 1337.

2. Each of the defendants maintains offices, transacts business, and is found within the District of Connecticut, within the meaning of 15 U.S.C. § 22 and 28 U.S.C. § 1391.

II.

DEFENDANTS

3. Danbury Health Systems, Inc. ("DHS") is a Connecticut not-for-profit corporation with its principal place of business in Danbury, Connecticut ("Danbury"). In the Danbury area, DHS offers acute inpatient care, outpatient surgical care, and other

services at its 450-bed acute care facility, Danbury Hospital.

4. Danbury Area IPA, Inc. ("DAIPA") is a not-for-profit corporation with its principal place of business in Danbury. Only active members of Danbury Hospital's medical staff may be owners of DAIPA. Over 98% of the doctors on Danbury Hospital's medical staff joined DAIPA.

5. HealthCare Partners, Inc. ("HealthCare Partners") is a Connecticut not-for-profit corporation with its principal place of business in Danbury. Danbury Hospital and DAIPA jointly own HealthCare Partners, and each appoints six of the twelve directors of HealthCare Partners' board of directors. DAIPA was created as the vehicle for doctor ownership in HealthCare Partners. HealthCare Partners has represented jointly Danbury Hospital and all of the DAIPA doctors in negotiations with managed care companies for participation in healthcare plans offered by those companies.

6. 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 members, 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.

BACKGROUND

7. Danbury Hospital is the sole provider of general acute inpatient care in the Danbury area. It faces no competition from other general acute care hospitals in the markets for these services and, accordingly, possesses a monopoly in general acute inpatient care.

8. Danbury Hospital is one of the only two providers of outpatient surgical care in the area. The Hospital also has close economic and administrative ties to a multispecialty doctor practice group, Danbury Office of Physician Services, P.C. ("DOPS"). DOPS employs over 100 doctors of the 444 doctors on the Danbury Hospital medical staff. Most DOPS doctors are specialists.

9. As is common with most hospitals, only a doctor on Danbury Hospital's medical staff may decide whether to admit a patient to Danbury Hospital. Only those doctors with active medical staff privileges at Danbury Hospital have enough involvement with the Hospital to influence the efficiency and cost effectiveness of care delivered by the Hospital.

10. Indemnity insurance plans cover a substantial percentage of the patients admitted to Danbury Hospital. These insurance plans pay a fee for each service or procedure provided. Thus, doctors ordering the Hospital's acute inpatient services for a patient covered by an indemnity plan have no financial incentive or contractual obligation to be efficient in their use of the Hospital.

11. In 1992, and perhaps earlier, innovations in the financing and delivery of healthcare, namely the development of managed care plans, were changing the financial incentives and contractual obligations of doctors on Danbury Hospital's medical staff. Managed care plans generally contract with a limited number of doctors in a community. By limiting the number of

doctors on the panel from which a managed care plan's enrollees may receive their care, managed care plans induce doctors to compete against each other for panel membership. Doctors may compete by offering lower prices to managed care plans, by agreeing to practice medicine in a manner that limits hospital and doctor utilization, or by agreeing to provide care in less costly but medically appropriate settings, such as outpatient surgery facilities.

12. In contrast to indemnity plans, managed care plans contract with doctors to create financial accountability for the necessity and appropriateness of the medical services the doctors authorize or deliver. The plans also review the utilization rates of doctors ordering hospital services.

13. By 1992, managed care companies had recruited a sufficient number of physicians with active staff privileges at Danbury Hospital to offer managed care plans to employers and individuals in the Danbury area.

14. As of 1992, the introduction of managed care plans into the Danbury area had reduced the hospital's market power in inpatient services by decreasing the

number of hospital admissions and the length of hospital stays, thereby causing the Hospital to lose significant inpatient volume. Additionally, the introduction of managed care plans resulted in increased competition among doctors and reduced referrals to specialists in DOPS (Danbury Hospital's affiliated multispecialty practice group).

15. In 1993, the Hospital took steps to form an alliance with doctors to pursue jointly the economic interests of both the Hospital and the doctors and forestall the continued development of managed care plans in the Danbury area.

16. The Hospital created a Medical Staff Development Plan that involved, among other things, the use of Danbury Hospital's control over admitting privileges as a tool to combat competition caused by, according to the Hospital, the oversupply of doctors in the area. The Hospital began to use its control of medical staff privileges and inpatient services to insulate itself from competition from its outpatient competitors. For example, the Hospital decided to limit the size and mix of its medical staff to restrain

competition among doctors in the Danbury area. In addition, the Hospital proposed to amend its bylaws to require that each member of the active medical staff perform at least 30% of the doctor's outpatient procedures at the Hospital even though the Hospital's consultants had advised it that they could find no support for using minimum volume requirements. The mere proposal of such a requirement, with the consequent threat to the doctors of the loss of admitting privileges, caused doctors who preferred to use the competing outpatient surgical center to increase their use of the Hospital's outpatient surgery facilities.

17. During the development of the Medical Staff Development Plan, the Hospital and select doctors formed a committee to create a vehicle for collective negotiations with managed care plans. This committee considered managed care plans a threat to the economic welfare of the Hospital and the doctors. It informed the doctors that its purpose was to create a collective negotiating and contracting unit. It also told the doctors that they would be able to exercise bargaining

power collectively that they had not possessed individually.

18. On May 6, 1994, the committee's efforts resulted in the incorporation of DAIPA and HealthCare Partners. DAIPA was open only to active members of Danbury Hospital's medical staff. Each doctor who joined DAIPA in turn signed a contract with HealthCare Partners that authorized HealthCare Partners to negotiate with managed care plans on the doctors' behalf. The Hospital signed a similar contract authorizing HealthCare Partners to negotiate on its behalf. HealthCare Partners was also authorized to establish a minimum fee schedule for the Hospital and participating doctors.

19. On May 6, 1994, DAIPA submitted membership applications to Danbury Hospital's medical staff. It informed the doctors that the Hospital, the largest employer in Danbury, would contract only with HealthCare Partners. Accordingly, any doctor who did not join DAIPA within 14 days would not be listed as eligible to treat the 5,000 individuals on whose behalf Danbury Hospital was expected to pay $3 million in

doctors' fees during the following year.

20. HealthCare Partners conferred with a consultant regarding the doctor fee schedule it intended to use for care delivered to Danbury Hospital employees. The consultant advised HealthCare Partners that the schedule was more generous than those used by managed care plans in the area and would, in the words of the consultant, send the message of "business as usual" to the doctors. HealthCare Partners, accordingly, proceeded to use that fee schedule confident that every doctor would agree to it.

21. Further, pursuant to its contract with HealthCare Partners, Danbury Hospital began referring any managed care plan that wanted to contract with the Hospital to HealthCare Partners. In the first three months of HealthCare Partners' existence, the Hospital referred 12 plans to HealthCare Partners for its consideration.

22. HealthCare Partners negotiated fees and signed contracts with two managed care plans. Once negotiations were completed, HealthCare Partners reported the negotiated fees to each doctor for that

doctor's approval. All DAIPA members approved each schedule.

23. The resulting fee schedules for these plans were generous to doctors. Indeed, as a result of these fee negotiations, at least one of these plans, which believed its standard fees for doctors were not low, was forced to raise its fees to doctors in other markets, as well as in the Danbury area, to avoid the costs it would have incurred to administer a separate fee schedule solely for the Danbury area.

24. None of the competing doctors shared financial risk or otherwise integrated their practices as a result of joining DAIPA or entering into the contracts that HealthCare Partners negotiated on their behalf. HealthCare Partners took no steps to implement utilization management procedures or assure quality assurance before entering into negotiations. It did not offer any new or additional product to the marketplace.

IV.

INTERSTATE COMMERCE

25. Many employers and insurers remit substantial payments across state lines to Danbury Hospital and the doctors on whose behalf HealthCare Partners has acted.

26. Many employers that remit payments to Danbury Hospital and those doctors are businesses that sell products and services in interstate commerce, and the size of those payments affects the prices of the products and services those businesses sell.

27. At material times, Danbury Hospital and members of its medical staff have used interstate banking facilities, and purchased substantial quantities of goods and services across state lines, for use in providing healthcare services to individuals in the Danbury area.

28. The activities of the defendants that are the subject of this Complaint are within the flow of, and have substantially affected, interstate trade and commerce.

V.

FIRST CAUSE OF ACTION

(Contracts in Restraint of Trade)

29. Beginning at least as early as May 5, 1994, and continuing until August 8, 1995, the defendants and others, not named as defendants in this case, engaged in a contract, combination, or conspiracy in unreasonable restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1. This offense is likely to continue or recur unless the relief requested is granted.

30. This contract, combination, or conspiracy consisted of a continuous agreement, understanding, and concert of action among the defendants and others to authorize HealthCare Partners to eliminate competition among competing doctors and competing outpatient service providers, to negotiate jointly on behalf of those doctors and Danbury Hospital, and to develop a minimum fee schedule for the doctors.

31. For the purpose of forming and effectuating this contract, combination, or conspiracy, the

defendants and others did the following things, among others:

(a) Formed DAIPA and HealthCare Partners;

(b) Directed managed care plans to HealthCare Partners as their designated joint bargaining agent;

(c) Jointly negotiated fees and other competitive terms on behalf of Danbury Hospital and competing doctors; and

(d) Took steps to require that each member of Danbury Hospital's medical staff perform at least 30% of the doctor's outpatient procedures at the Hospital.

32. This contract, combination, or conspiracy had the following effects, among others:

(a) It unreasonably restrained prices and other forms of competition among doctors in the Danbury area;

(b) It caused higher prices for physician services in the Danbury area and in other markets;

(c) It deprived managed care plans of the benefits of full and fair competition between outpatient service providers, in the Danbury area;

(d) It deprived managed care plans of the ability to control and reduce unnecessary hospital and doctor utilization;

(e) It hindered development of innovative healthcare financing and delivery systems in the Danbury area; and

(f) It deprived employers and individual consumers of the benefits from free and open competition in the purchase of healthcare services in the Danbury area.

33. As a result of the aforementioned contract, combination, or conspiracy, the general welfare and economy of the State of Connecticut has sustained injury, and continued loss and damage to the welfare and economy is threatened unless the defendants are enjoined from continuing or renewing their unlawful conduct.

VI.

SECOND CAUSE OF ACTION

(Monopolization)

34. Beginning at least as early as May 5, 1994, and continuing until August 4, 1995, DHS willfully maintained its market power in inpatient hospital services and gained an unfair advantage in markets for outpatient services through various exclusionary acts in violation of Section 2 of the Sherman Act, 15 U.S.C. § 2. This offense is likely to continue or recur unless the relief requested is granted.

35. For the purpose and with the effect of maintaining its market power in inpatient hospital services, and of gaining an unfair advantage in markets for outpatient services, DHS took the following exclusionary acts, among others, in violation of Section 2:

(a) It helped organize DAIPA and HealthCare Partners to reduce or limit the development of managed care plans in the Danbury area;

(b) It used its control over hospital admitting privileges and acute inpatient services to

coerce doctors and managed care plans to use its facilities rather than competing outpatient facilities; and

(c) It used its control over hospital admitting privileges to block the entry of new doctors into the Danbury area.

36. As a result of the aforementioned exclusionary acts, the general welfare and economy of the State of Connecticut has sustained injury, and continued loss and damage to the welfare and economy is threatened unless DHS is enjoined from continuing or renewing its unlawful conduct.

VII.

REQUEST FOR RELIEF

Plaintiffs request:

1. That the Court adjudge and decree that the defendants entered into unlawful agreements in unreasonable restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1;

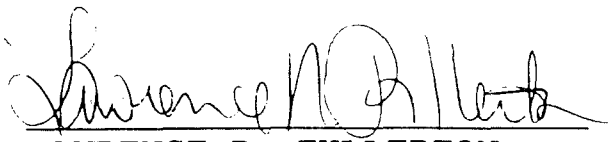
2. That the Court adjudge and decree that DHS violated Section 2 of the Sherman Act, 15 U.S.C. § 2;

3. That defendants, their officers, directors, agents, employees, and successors, and all other persons acting or claiming to act on behalf of any of them, be enjoined, restrained, and prohibited for a period of ten years from, in any manner, directly or indirectly, continuing, maintaining, or renewing the conduct alleged herein or from engaging in any other conduct, combination, conspiracy, agreement, understanding, plan, program, or other arrangement having the same effect as the alleged violations; and

4. That the United States and the State of Connecticut have such other relief as the nature of the case may require and the Court may deem just and proper.

DATED: September 13, 1995

PLAINTIFF
UNITED STATES OF AMERICA:



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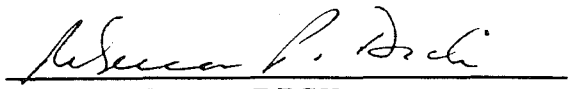

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