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# Exhibit H

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN

----- :  
In re: UNITED STATES of :  
AMERICA and the STATE of :  
MICHIGAN, :  
 :  
Plaintiffs, :  
 :Case No.  
v. :5:15-CV-12311-JEL-DRG  
 :  
HILLSDALE COMMUNITY HEALTH :  
CENTER, W.A. FOOTE MEMORIAL :  
HOSPITAL d/b/a ALLEGIANCE :  
Health, COMMUNITY HEALTH :  
CENTER of BRANCH COUNTY, :  
and PROMEDICA HEALTH :  
SYSTEM, INC., :  
 :  
Defendants. :  
----- :

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

Wednesday, December 14, 2016

Video Deposition of SUSAN H. MANNING,  
PH.D., taken at the Law Offices of Baker  
Donelson, Bearman, Caldwell & Berkowitz, PC,  
901 K Street NW, Washington, D.C., beginning at  
9:35 a.m., before Ryan K. Black, a Registered  
Professional Reporter, Certified Livenote  
Reporter and Notary Public in and for District  
of Columbia.

1                   SUSAN HENLEY MANNING, PH.D.,  
2           called to testify, having been first duly sworn  
3           or affirmed, was examined and testified as  
4           follows:

5                                   EXAMINATION

6           BY MS. SELTZER:

7                   Q.     Good morning, Dr. Manning.   Could you  
8           please state your full name for the record?

9                   A.     Mm-hmm.   Susan Henley Manning.

10                  Q.     Dr. Manning, my name is Michelle  
11           Seltzer.   As I mentioned, I represent the United  
12           States.   I've introduced my colleagues, and  
13           you've introduced yours.

14                  Do you understand that you're under  
15           oath and your answers today must be truthful?

16                  A.     Yes.

17                  Q.     Is the curriculum vitae that you  
18           attached as Attachment 1 to your report in this  
19           matter a current and accurate list of your  
20           credentials?

21                  A.     Yes.   I believe so.

22                  Q.     Do you have any updates to your

1 could have competed more successfully absent the  
2 agreement?

3 A. I would say that the question  
4 ultimately would come down to whether that  
5 competition that existed was reduced, such  
6 that that there was an effect on price or  
7 output. That's what's important. And I'm not  
8 seeing a reduction in competition in the market,  
9 and I'm not seeing where Dr. Chipty has provided  
10 any evidence that there was an increase in price  
11 or reduction in output as a result of any type  
12 of dampening or reduction in competition.

13 Q. Does evidence that Allegiance  
14 gained share in Hillsdale County rule out the  
15 possibility that Allegiance could have gained  
16 even more share in Hillsdale County absent the  
17 alleged agreement?

18 A. I don't think it rules out the  
19 possibility, but the relevant question is  
20 whether it had an effect on prices or output.  
21 That's the relevant question, and that's the  
22 question that Dr. Chipty did not provide any

1 economic support for, her position that it did.

2 Q. So I understand that you might not  
3 think I'm asking the relevant question, but  
4 is the answer to my question that evidence that  
5 Allegiance gained share in Hillsdale County does  
6 not rule out the possibility that Allegiance  
7 could have gained even more share in Hillsdale  
8 County absent the alleged agreement?

9 MR. BURNS: Objection. Asked and  
10 answered.

11 THE WITNESS: Again, I -- my view  
12 is that the relevant question here is whether  
13 there was a reduction in competition that had  
14 an adverse effect on prices or output in the  
15 market. I'm not sure I can answer your question  
16 because I don't quite understand, I guess, why  
17 it's relevant to the -- to the issue.

18 I mean, if there was more -- there  
19 should have been more competition, I'm not  
20 seeing that in the record. Dr. Chipty does  
21 not provide any analysis of what that increased  
22 competition would have been. Is she talking

1 Q. Do you agree that hospitals use  
2 strategies to attract patient volume, other  
3 than restrictions on marketing?

4 A. Yes.

5 Q. Do you -- is marketing services  
6 directly to patients one way hospitals try to  
7 attract patients?

8 A. That is one means of attracting  
9 patients, yes.

10 Q. Is aligning with primary care  
11 physicians a way that hospitals try to attract  
12 patients?

13 A. Can you give me more understanding of  
14 what you mean by aligning with physicians --

15 Q. Sure.

16 A. -- to make sure we're on the same  
17 -- using the same nomenclature?

18 Q. In Paragraph 73 of your report, you  
19 quote a deposition of Karen Yacobucci, and you  
20 wrote, Allegiance made many efforts to develop  
21 relationships with primary care physicians in  
22 Hillsdale, such as Dr. Abdulkarim, as a referral

1 source because Allegiance's best strategy of  
2 going into a market is to align the primary care  
3 physicians. We align with independent  
4 physicians all the time. Allegiance's physician  
5 liaison program also focused on referrals from  
6 primary care physicians.

7 So let me ask, is making efforts  
8 to develop relationships with primary care  
9 physicians a way that hospitals attract  
10 patients?

11 A. Yes.

12 Q. And is implementing a physician  
13 liaison program a way that hospitals attract  
14 patients?

15 A. It is certainly a strategy used by  
16 Allegiance, and it -- it proved, to me at least,  
17 to be a very effective strategy. I believe  
18 physician liaison programs are used at other  
19 hospitals, as well.

20 Q. Is engaging in physician-to-physician  
21 marketing; for example, through direct mailings  
22 or e-mails, a strategy to attract referrals?



1 A. It could be.

2 Q. Is offering physician seminars a  
3 strategy to attract referrals?

4 A. It could be.

5 Q. Is putting on health fairs a strategy  
6 to attract referrals?

7 A. I would say it could be, although I  
8 believe health fairs are more directed towards  
9 patients, and so I presume a patient can refer  
10 itself to a hospital. But when I think of  
11 referrals I think more physician to physician.

12 Q. Is putting on health fairs a strategy  
13 to attract patient volume?

14 A. I believe that it could be.

15 Q. Is offering free health screenings a  
16 strategy to attract patient volume?

17 A. It could be.

18 Q. Is offering free health screenings a  
19 strategy to attract referrals?

20 A. It could be.

21 Q. Is establishing a local primary care  
22 presence a way that hospitals attract patients?

1           A.     It could be.

2           Q.     Could -- so for each of those ways  
3     -- for each of those actions that could be ways  
4     for hospitals to attract referrals, did you do  
5     any analysis of why Allegiance chose to restrict  
6     its marketing in Hillsdale County, rather than  
7     to do more of those things in Hillsdale County?

8           MR. BURNS:   Objection as to form.

9           THE WITNESS:   I don't understand  
10    your question in terms of more of those other  
11    strategies.

12           My understanding is that Hill -- that  
13    Allegiance engaged in those strategies, and so  
14    when you say more, it seems to me it's not a  
15    question of volume, it's a question of the  
16    effectiveness of the implementation of those  
17    particular marketing strategies that you refer  
18    to.   And there I think the evidence suggests --  
19    actually to me the evidence says that Allegiance  
20    was very effective with those strategies along  
21    with other methods of competition which they  
22    engaged in.

1 Susan H. Manning, Ph.D

2 C E R T I F I C A T E

3  
4 I do hereby certify that the aforesaid  
5 testimony was taken before me, pursuant to  
6 notice, at the time and place indicated; that  
7 said deponent was by me duly sworn to tell the  
8 truth, the whole truth, and nothing but the  
9 truth; that the testimony of said deponent was  
10 correctly recorded in machine shorthand by me  
11 and thereafter transcribed under my supervision  
12 with computer-aided transcription; that the  
13 deposition is a true and correct record of the  
14 testimony given by the witness; and that I am  
15 neither of counsel nor kin to any party in said  
16 action, nor interested in the outcome thereof.

17  
18 WITNESS my hand and official seal this  
19 26th day of December 2016.

20  
21 

22 Ryan K. Black