

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	Civil Action No. 79-172-9
v.	)	Filed: August 27, 1979
	)	
SOUTH CAROLINA HEALTH CARE	)	
ASSOCIATION, INC.,	)	Equitable Relief Sought
	)	
Defendant.	)	

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 and complains and alleges as follows:

I

JURISDICTION AND VENUE

1. This Complaint is filed and this action is instituted under Section 4 of the Sherman Act (15 U.S.C. §4), to prevent and restrain the continuing violation by the defendant, as hereinafter alleged, of Section 1 of the Sherman Act (15 U.S.C. §1).

2. The defendant maintains its principal office, transacts business, and is found within the District of South Carolina.

II

THE DEFENDANT

3. The South Carolina Health Care Association, Inc. [hereinafter the "Association"], is a non-profit corporation, organized and existing under the laws of the State of South Carolina, with its principal place of business in Columbia, South Carolina. The Association is a trade association for the nursing home industry in South Carolina. Approximately

85 nursing homes throughout the State, representing over 80% of all nursing home beds in South Carolina are "institutional" members of the Association. In addition to institutional members, numerous individuals associated in various ways with nursing homes are "personal" members of the Association.

### III

#### CO-CONSPIRATORS

4. Various persons, not named herein as defendants, have participated as co-conspirators in the offense herein-after alleged, and have performed acts and made statements in furtherance thereof.

### IV

#### TRADE AND COMMERCE

5. Nursing homes provide daily care to various individuals, including the elderly, blind, and other disabled persons. Most homes offer one or more types of care, ranging from highly skilled nursing and rehabilitative services to less skilled service generally known as intermediate care.

6. A system of "Grants to States for Medical Assistance Programs," 42 U.S.C. §1396, commonly known as the Medicaid program, was created by Congress in 1965 and today is the primary source of health care for indigents under the Social Security laws. Medicaid is a cooperative federal/state venture, jointly financed by federal and state funds. Currently, every State except Arizona participates in Medicaid. While the amount of funds provided by the federal government exceeds the amount provided by the states, participating states are required to assume the major responsibility in administering the program.

7. To qualify for federal Medicaid funding, states must offer certain mandatory services, including skilled nursing home care, to eligible recipients. At its option, a state may provide other services, including intermediate nursing home care. More Medicaid funds are spent on nursing home care than on any other single service furnished by the Medicaid program. In fiscal year 1977, \$6.7 billion, approximately 40% of all Medicaid funds, were spent on nursing home care.

8. South Carolina began providing nursing home care under the Medicaid program on January 1, 1969. Almost every nursing home in South Carolina offering skilled and/or intermediate care participates in the program, which is administered by the State's Department of Social Services [hereinafter "DSS"]. All nursing homes providing care under the Medicaid program in South Carolina must enter into a service contract with DSS, known as the "Standard South Carolina Agreement for the Purchase of Nursing Facility Services by Government Agencies." The contract outlines the responsibilities of the homes and DSS and includes, among other things, the reimbursement methodology under which payment by DSS to the homes is made. When applied to the operating costs of each home, the reimbursement methodology determines the rate various homes are paid. Within certain federal guidelines, the State is free to determine its specific reimbursement methodology.

9. Approximately 75% of all occupied nursing home beds in South Carolina are paid for with funds provided by the Medicaid program. The provision of nursing home care in

South Carolina has accounted for the largest share of total Medicaid expenditures in the State. In fiscal year 1978, the South Carolina Medicaid program spent \$66,150,463 for nursing home services, accounting for 41.6% of all Medicaid funds spent by the State. Total Medicaid funds expended for nursing home care in South Carolina from 1969 to the present have exceeded \$225 million.

10. Pursuant to the Medicaid program, substantial payments have been made to South Carolina nursing homes by the State of South Carolina from funds received across state lines from the United States Treasury. Since the program's inception, the federal share of South Carolina's Medicaid expenditures has ranged from 70% to 80%. The activities of the defendant and co-conspirators, as hereinafter alleged, have had a substantial effect upon interstate commerce.

#### V

#### VIOLATION ALLEGED

11. Beginning in or about 1973, and continuing to the present time, the defendant and its co-conspirators have engaged in a continuing combination and conspiracy in unreasonable restraint of the aforesaid trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. §1).

12. The combination and conspiracy has consisted of a continuing agreement, understanding, and concert of action among the defendant and its co-conspirators to raise the price of nursing home services in South Carolina paid under the Medicaid program.

13. In furtherance of the aforesaid combination and conspiracy, the defendant and co-conspirators have done those things which they have combined and conspired to do, by means of the following acts in furtherance of the conspiracy, among others:

- (a) Appointing the Association as the bargaining agent of member nursing homes to negotiate and approve or disapprove on behalf of its members, Medicaid reimbursement contracts with DSS; and
- (b) Jointly refusing to enter into contracts with DSS to care for Medicaid patients except upon such terms and conditions as have been agreed upon by the Association and its members.

#### VI

#### EFFECTS

14. The aforesaid combination and conspiracy has had the following effects, among others:

- (a) Competition among nursing homes with respect to the terms and conditions on which they will contract to care for Medicaid patients has been eliminated; and
- (b) Prices charged by nursing homes for the care of Medicaid patients have been increased.

#### PRAYER

Wherefore, plaintiff prays:


1. That the alleged combination and conspiracy among the defendant and its co-conspirators be adjudged and declared to be in unreasonable restraint of trade in violation of Section 1 of the Sherman Act.

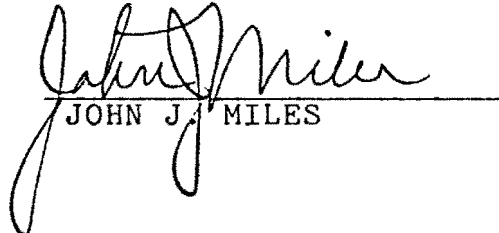
2. That defendant, its officers, directors, committees, agents, employees, successors and assigns and all persons acting or claiming to act on their behalf, be enjoined from continuing or renewing the combination and conspiracy alleged herein and from entering into any similiar agreement or concert of action.

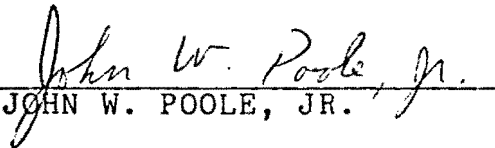
3. That the court grant such other relief as it deems appropriate.

  
JOHN H. SHENEFIELD  
Assistant Attorney General

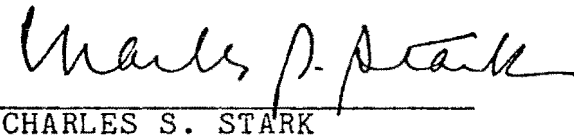
  
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