

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.
)	78-554-Orl-Civ-Y
HALIFAX HOSPITAL MEDICAL)	
CENTER; VOLUSIA COUNTY)	
MEDICAL SOCIETY, INC.,)	Filed: March 9, 1981
)	Entered: June 24, 1981
Defendants.)	

FINAL JUDGMENT AS TO DEFENDANT
HALIFAX HOSPITAL MEDICAL CENTER

Plaintiff, United States of America, having filed its complaint herein on November 27, 1978, and defendant, Halifax Hospital Medical Center, having appeared by its attorneys, and having filed its answer to such complaint denying the material allegations thereof, and the parties hereto, by their respective attorneys, having consented to the entry of this Final Judgment, without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting evidence or admission by either party in respect to any issue of fact or law herein;

NOW THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby,

ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

I

This Court has jurisdiction over the subject matter herein and of the parties hereto. The complaint states a claim upon which relief may be granted against defendant under Section 1 of the Sherman Act.

II

As used in this Final Judgment:

A. "Center" means defendant Halifax Hospital Medical Center.

B. Health maintenance organization ("HMO") means an entity authorized by certificate pursuant to the Health Maintenance Organization Act, Chapter 641 Part II, Florida Statutes Ann., to provide, either directly or through arrangements with others, health care services to persons enrolled with such organization on a prepaid per capita or prepaid aggregate fixed sum basis.

III

The provisions of this Final Judgment shall apply to defendant Center and each member of its Board of Commissioners, its employees, its attorneys, its agents and to all persons in active concert or participation with any of them who received actual notice of this Final Judgment by personal service or otherwise.

IV

Defendant Center is enjoined and restrained from entering into or participating in any conspiracy, agreement,

understanding, plan or concert of action with any person, which has the purpose or foreseeable effect of impairing the ability of any actual or proposed HMO to commence or maintain operations for, or to compete in, the delivery of health care services in the Volusia County area.

V

Defendant Center is enjoined and restrained from establishing or maintaining a professional procurement committee or any other committee, and from adopting or engaging in any policy, practice or procedure, whose purpose or foreseeable effect is to discourage any physician from seeking medical staff privileges at the Center, or to exclude any physician from the Center's medical staff:

- (1) because such physician is affiliated, or proposes to affiliate, with an HMO; or
- (2) because of any purported lack of need for additional physicians in such physician's area of specialization;

provided, however, that nothing in this paragraph V shall prevent the Center from entering into contracts with one or more physicians or physician practice groups providing for the exclusive provision at the Center of medical specialties which are principally hospital-based.

VI

Defendant Center is enjoined and restrained from entering or participating in any conspiracy, agreement, understanding, plan or concert of action with any person which has the purpose or foreseeable effect of:

(1) discriminating in any way against patients or prospective patients in the provision of, or in any arrangement for the provision of, the Center's services, by reason of the fact that such patients or prospective patients are enrolled in an HMO; or

(2) discriminating in any way against any Center employee by reason of the fact that such employee is enrolled or is contemplating enrollment in an HMO.

VII

Defendant Center is enjoined and restrained from discriminating against an HMO or against any physician affiliated with an HMO in connection with the selection of teaching faculty to whom to assign the services of resident physicians who participate in the Center's Family Practice Residency Program; provided, however, that nothing in this Final Judgment shall impair or limit the ability of the Center and the members of the teaching faculty in the Family Practice Residency Program to determine whether or not, in considering the professional training needs of the residents, to deploy the residents at any HMO with which such faculty members are affiliated.

VIII

A. Nothing in this Final Judgment shall prohibit or limit the ability of the Center from carrying out its duties and responsibilities under applicable Florida statutes and regulations.

B. Nothing in paragraphs IV, V and VI of this Final Judgment shall prohibit or limit the ability of defendant Center or any other person subject to this Final Judgment, to the extent otherwise lawful, from:

(1) preparing or furnishing testimony, information or advice to, or negotiating with, any governmental body or agency or furnishing drafts or copies of any such information to any organization which is preparing or furnishing testimony, information or advice to, or negotiating with, any governmental body or agency with respect to the same subject matter;

(2) advising its Board of Commissioners, employees and others of existing or proposed legislation, programs, policies, regulations, actions, procedures, or interpretations issued or proposed by any governmental body or agency, communicating its views with respect thereto, and soliciting their views thereon;

(3) informing its Board of Commissioners, employees and others of any testimony, information or advice supplied to, or negotiations with, any governmental body or agency; and

(4) suggesting or recommending that its Board of Commissioners, employees or others undertake activities enumerated in subparagraphs (1) through (3) above;

unless such activities are undertaken as a sham, including, without limitation, activities that are intended to achieve the effects described in paragraphs IV, V and VI, through means other than the action of a governmental body or agency.

IX

Defendant Center shall require, as a condition of sale or lease or other disposition of all, or substantially all, of the assets used by it in its provision of health care services, that the acquiring or leasing party agree to be bound by the provisions of this Final Judgment, and that such agreement be filed with the Court.

X

Defendant Center is ordered and directed:

A. Within sixty (60) days from the entry of this Final Judgment,

- (1) to send a copy of this Final Judgment to each physician employed by or having medical staff privileges at defendant Center and to each administrator and assistant administrator of defendant Center; and
- (2) to file with this Court and to serve upon plaintiff an affidavit as to the fact and manner of compliance with subsection A of this paragraph X.

B. For a period of ten (10) years from the entry of this Final Judgment, to serve a copy of this Final Judgment upon:

- (1) each person who shall become a member of the Board of Commissioners at defendant Center at such time as he or she becomes a member of said Board;
- (2) each physician who shall become employed by or be granted medical staff privileges at defendant Center at such time as he or she becomes employed by or is granted staff privileges at the Center; and
- (3) each person who shall become an administrator or assistant administrator at defendant Center at such time as he or she becomes employed by the Center.

XI

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

A. Upon written request of the Attorney General, or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant Center made to its principal office, duly authorized representatives of the Department of Justice shall, be permitted:

- (1) Access during office hours to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the Center, which may have counsel present, regarding any such matters contained in this decree; and

(2) Subject to the reasonable convenience of defendant and without restraint or interference from it, to interview officers, employees and agents of defendant, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General, or of the Assistant Attorney General in charge of the Antitrust Division, made to defendant Center's principal office, defendant Center shall submit such written reports, under oath if requested, with respect to any of the matters contained in this decree as may be requested.

No information or documents obtained by the means provided in this paragraph XI shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law. If, at the time information or documents are furnished to plaintiff, defendant Center represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendant Center marks each pertinent page of such material "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to defendant Center prior to divulging such material in any legal proceeding other than a grand jury proceeding to which defendant Center is not a party.

XII

This judgment shall remain in effect for a period of ten (10) years from the date of entry. Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

XIII

Entry of this Final Judgment is in the public interest.

Dated: June 24, 1981

George Young

UNITED STATES DISTRICT JUDGE