

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

_____)	
In the matter of)	
)	
Evanston Northwestern Healthcare Corporation,)	
a corporation, and)	Docket No. 9315
)	(PUBLIC RECORD VERSION)
)	
ENH Medical Group, Inc.,)	
a corporation.)	
_____)	

**COMPLAINT COUNSEL’S SECOND REQUEST FOR
PRODUCTION OF DOCUMENTS ISSUED TO RESPONDENTS**

Pursuant to the Federal Trade Commission’s Rules of Practice, 16 C.F.R. § 3.37, Complaint Counsel hereby request that Respondents produce all documents and other things responsive to the following requests, within its possession, custody, or control within twenty days of service of this request, in accordance with the Definitions and Instructions set forth below. Objections to this request for production of documents are due within ten days of service.

SPECIFICATIONS

In accordance with the definitions and instructions below, please submit:

1. A complete set of contracts between any Identified Payer and any Respondent.

DEFINITIONS

- A. The terms "and" and "or" have both conjunctive and disjunctive meanings.
- B. The term “contract” includes all contracts (including consents to assignment, amendments, other legally enforceable revisions) and cover letters to those contracts between any Identified Payer and any Respondent which were in effect on or after January 1, 1995 (including contracts that were executed before January 1, 1995).
- C. The term "documents" means all computer files and written, recorded, and graphic materials of every kind in the Company's possession, custody or control. The term "documents" includes electronic mail and drafts of documents, copies of documents that are not identical duplicates of the originals, and copies of documents the originals of which are not in the

possession, custody or control of any Respondent. The term "computer files" includes information stored in, or accessible through, computer or other information retrieval systems; such computer files should be printed and produced in hard copy (unless otherwise required by a particular specification or subspecification, or agreed to by Commission representatives), together with instructions and all other materials necessary to use or interpret the data.

D. The terms "each," "any," and "all" mean "each and every."

E. The term "ENH" means Evanston Northwestern Healthcare Corp., its directors, officers, trustees, employees, attorneys, agents, consultants and representatives, parents, predecessors, successors, divisions, subsidiaries, affiliates, partnerships and joint ventures, and the directors, officers, trustees, employees, attorneys, agents, consultants and representatives of its parents, predecessors, successors, divisions, subsidiaries, affiliates, partnerships, and joint ventures. The terms "subsidiary," "affiliate," and "joint venture" refer to any person in which there is partial (25 percent or more) or total ownership or control between ENH and any other person.

F. The term "ENH Medical Group" means the ENH Medical Group, Inc., its directors, officers, trustees, employees, attorneys, agents, consultants and representatives, parents, predecessors, successors, divisions, subsidiaries, affiliates, partnerships and joint ventures, and the directors, officers, trustees, employees, attorneys, agents, consultants and representatives of its parents, predecessors, successors, divisions, subsidiaries, affiliates, partnerships, and joint ventures. The terms "subsidiary," "affiliate," and "joint venture" refer to any person in which there is partial (25 percent or more) or total ownership or control between the ENH Medical Group and any other person.

G. The term "HPH" means Highland Park Hospital (Highland Park, Illinois), its directors, officers, trustees, employees, attorneys, agents, consultants and representatives, parents (including but not limited to Lakeland Health Services), predecessors, successors, divisions, subsidiaries, affiliates, partnerships and joint ventures, and the directors, officers, trustees, employees, attorneys, agents, consultants and representatives of its parents, predecessors, successors, divisions, subsidiaries, affiliates, partnerships, and joint ventures. The terms "subsidiary," "affiliate," and "joint venture" refer to any person in which there is partial (25 percent or more) or total ownership or control between ENH and any other person.

H. The term "Identified Payers" means any of the following:

1. [redacted]

2. [redacted]

3. [redacted]

4. [redacted]

5. [redacted]

6. [redacted]

7. [redacted]

8. [redacted]

9. [redacted]

10. [redacted]

11. [redacted]

12. [redacted]

13. [redacted]

14. [redacted]

15. [redacted]

16. [redacted]

I. The term "person" means any natural person, corporate entity, partnership, association, joint venture, government entity, or trust.

J. The term "relating to" means in whole or in part constituting, containing, concerning, discussing, describing, analyzing, identifying, or stating.

K.. The term "Respondent" includes the ENH, HPH, and ENH Medical Group.

INSTRUCTIONS

A. Respondents are specifically directed to produce such responsive documents even if such documents have been produced earlier in this matter.

B. The response to this request shall be submitted in the following manner:

- (1) Documents provided shall be complete and, unless privileged, unredacted, submitted as found in the company's files (e.g., documents that in their original condition were stapled, clipped or otherwise fastened together shall be produced in such form). The company may submit photocopies (with color photocopies where necessary to interpret the document), in lieu of original documents, provided that such copies are accompanied by an affidavit of an officer of the company (such as that included in the certification form attached to this request) stating that the copies are true, correct, and complete copies of the original documents.
- (2) Mark each page with corporate identification and consecutive document control numbers. Number each box and mark each box with the name(s) of

the person(s) whose files are contained in that box. Documents shall be submitted in sturdy cartons not larger than 1.5 cubic feet, and packed in a manner that reasonably minimizes the cubic footage of the total submission (for example, if a person's files fill only half of a box, please fill the other half with another person's files if possible, rather than leaving the space empty).

- (3) Responsive documents from each person's files shall be produced together, in file folders or with other enclosures that segregate the person's files by specification number. If a document is responsive to more than one specification, produce the document in response to the specification to which it is primarily responsive.
- (4) Provide a master list showing: (a) the name of each person from whom responsive documents are submitted; and (b) the corresponding consecutive document control number(s) used to identify that person's documents. If the master list exists as a computer file(s), provide both the computer file(s) and a printed hard copy of the master list. The Commission staff representatives will provide a sample master list upon request.

D. Data shall be provided both in electronic form on magnetic media, and on paper, unless otherwise agreed to by Commission staff.

E. Magnetic media shall be submitted in the following forms and formats:

(1) Magnetic storage media. The FTC will accept: (1) 9-track computer tapes recorded in ASCII or EBCDIC format at either 1600 or 6250 BPI; (2) 3.5-inch microcomputer floppy diskettes, high-density, double-sided, formatted for IBM compatible computers (1.44 MB capacity); (3) Iomega ZIP disks formatted for IBM compatible PCs (100 or 250 MB capacity); (4) CD-R74 CD-ROM readable disks formatted to ISO 9660 specifications (650 MB capacity); (5) Iomega DITTO mini data cartridges (2000 MB capacity). The FTC will accept 4mm & 8mm DAT and other cassette, mini-cartridge, cartridge, and DAT/helical scan tapes by pre-authorization only. In all events, files provided on 4mm DAT cassettes must not be compressed or otherwise altered by proprietary backup programs. Where data is to be transferred from a UNIX system the FTC will accept data provided on 8mm DAT created using TAR or DD.

(2) File and record structures.

(a) Magnetically-recorded information from centralized non-microcomputer-based systems:

- (i) File structures. The FTC will accept sequential files only. All other file structures must be converted into sequential format.
- (ii) Record structures. The FTC will accept fixed length records only. All data in the record is to be provided as it would appear in printed format: *i.e.*, numbers unpacked, decimal points and signs printed.

(b) Magnetically-recorded information from microcomputers: Microcomputer-based data: word-processing documents should be in DOS-text (ASCII), WordPerfect 8 or earlier version, or Microsoft Word 2000 or earlier version format. Spreadsheets should be in Microsoft Excel 2000 (.xls) or earlier version, or Lotus-compatible (.wk1) format. Database files should be in Microsoft Access 2000 (.mdb) or earlier version, or dBase-compatible (.dbf), version 4 or earlier, format. Database or spreadsheet files also may be submitted after conversion to ASCII delimited, comma separated format, with field names as the first record, or to or fixed length fields accompanied by a record layout. Graphic images must be in TIFF 4 format, compressed and unencrypted. Other proprietary software formats for word processing documents, spreadsheets, databases, graphics and other data files will be accepted by pre-authorization only. For microcomputer files that are too large for one disk, files may be provided in a compressed ZIP format.

(3) Documentation

(i) Data must be accompanied by the following information: (a) full path name of the file and (b) the identity of the media on which it resides, e.g., the identity of the cd, zip disk or floppy that holds the file. In the case of complex files or directories of files, all component files that are part of a given directory must be specified with their full path names. Where necessary, the subdirectories that must be created in order to successfully read these submitted files must be provided.

(ii) Files must be accompanied by the following information: (a) filename; (b) the identity of the particular storage media on which the file resides; (c) the position of the file on the media. For all sequential files, the documentation also must include: (a) the number of records contained in the file; (b) the record length and block size; and (c) the record layout, including: (i) the name of each element, (ii) the element's size in bytes, and (iii) the element's data type. The documentation should be included in the same package as the storage media, along with a printout of the first 100 records in report format.

(4) Shipping: Magnetic media should be carefully packed to avoid damage, and must be shipped clearly marked: **MAGNETIC MEDIA--DO NOT X-RAY.**

(5) Virus Checks: Media will be scanned for viruses. Infected media will be returned for replacement.

F. If any documents are withheld from production based on a claim of privilege, provide a statement of the claim of privilege and all facts relied upon in support thereof, in the form of a log that includes each document's authors, addressees, date, a description of each document, all recipients of the original and any copies, and the specification(s) of this request to which the document is responsive. If the log exists as a computer file(s), provide both the computer file(s) and a printed hard copy of the log. Attachments to a document should be identified as such and entered separately on the log. For each author, addressee, and recipient, state the person's full name, title, and employer or firm, and denote all attorneys with an asterisk. The description of the subject matter shall include the number of pages of each document and shall describe the nature of each document in a manner that, though not revealing information itself privileged, provides sufficiently detailed information to enable the Commission to assess the applicability of the privilege claimed. For each document withheld under a claim that it constitutes or contains attorney work product, also state whether the company asserts that the document was prepared in anticipation of litigation or for trial and, if so, identify the anticipated litigation or trial upon which the assertion is based. Submit all nonprivileged portions of any responsive document (including nonprivileged or redactable attachments) for which a claim of privilege is asserted (except where the only nonprivileged information has already been produced in response to this instruction), noting where redactions in the document have been made. Documents authored by outside lawyers representing the company that were not directly or indirectly furnished to the company or any third-party, such as internal law firm memoranda, may be omitted from the log.

G. If documents responsive to a particular specification no longer exist for reasons other than the ordinary course of business or the implementation of the company's document retention policy as disclosed or described in response to this request or the company's response to the Subpoena Duces Tecum issued in FTC File No. 011-0234, dated June 25, 2002, but the company has reason to believe have been in existence, state the circumstances under which they were lost or destroyed, describe the documents to the fullest extent possible, state the specification(s) to which they are responsive, and identify persons having knowledge of the content of such documents.

H. If the company believes the scope of this request for production of documents can be narrowed consistent with the Commission's need for information, you are encouraged to discuss such possible modifications with Nancy Park at (202) 326-3612, or Philip Eisenstat at (202) 326-2769.

I. In complying with the specifications, the Respondents should submit the responsive materials by the request return date to the attention of Nancy Park, Federal Trade Commission, 601 New Jersey Ave., N.W., Washington, DC 20001.

Dated: _____

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