



UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the matter of)
)
Evanston Northwestern Healthcare)
Corporation,)
a corporation, and)
)
ENH Medical Group, Inc.,)
a corporation.)
_____)

Docket No. 9315

NOTICE OF ANTICIPATED REBUTTAL TESTIMONY

Complaint counsel anticipates calling Dr. Patrick Romano as a rebuttal witness to testify on Thursday, April, 7, 2005. Dr. Romano has been listed as a rebuttal witness since his rebuttal expert report dated November 23, 2004. Complaint Counsel has already given Respondent notice on March 28, 2005, five business days before this Thursday, that Dr. Romano would be called as a rebuttal witness. To date, Respondent has not raised any objections to Dr. Romano being called to testify as a rebuttal witness. Dr. Romano will directly rebut testimony from Respondent's expert witness, Dr. Mark Chassin; we anticipate that his rebuttal testimony should take no longer than 2 hours and will be limited to the following specific points in Dr. Chassin's testimony.

1. **Dr. Chassin's criticisms of Dr. Romano's methodology.** Dr. Chassin testified that Dr. Romano's use of the "differences in differences" methodology is not appropriate for analyzing whether the "merger changed hospital quality" at HPH. Dr. Chassin testified that this

methodology does not take into account a “continuous trend” in quality. (Chassin, Tr. 5187:22-5188:12; DX 8061) He also testified that the “differences in differences” methodology Dr. Romano used does not offer an accurate view of an individual hospital’s performance on certain outcomes, compared to the performance of a control group of hospitals, even in situations where the change in rate may not be “close to zero”. (Chassin, Tr. 5189:3-5190:17; DX 8061) Dr. Romano will explain in rebuttal that he did the trend analysis suggested by Dr. Chassin in his comparison of HPH’s performance to that of a control group of peer institutions, and that Dr. Chassin’s criticisms of the accuracy of the “differences in differences” methodology are not applicable in this matter.

Dr. Chassin also criticized the validity of certain indicators used by the Agency for Healthcare Research and Quality (AHRQ), which Dr. Romano relied upon in his “differences-in-differences” analysis. (Chassin, Tr. 5583:6-16) Dr. Romano is one of the developers of these indicators, on rebuttal, he can describe the validity of the indicators at issue, particularly with reference to the pronouncements of AHRQ itself.

2. AHRQ measures v. JCAHO measures. Another criticism of Dr. Romano’s use of administrative data by Dr. Chassin, focuses on the differing results in data gathered from two different sources, the Joint Commission for the Accreditation of Health Care Organizations (JCAHO) and AHRQ. (Chassin, Tr. 5181:19-5182:18) On rebuttal, Dr. Romano will explain those differences in the administrative data and how they have impacted his analysis, if at all. Dr. Romano will also testify that the data compiled by AHRQ does not use an inferior method of risk-adjustment relative to the JCAHO model, another assertion by Dr. Chassin at trial. (Chassin, Tr. 5184:4-10) Dr. Romano will also explain that JCAHO has recently started to use outcome

measures in assessing hospital quality of care for its accreditation process, contradicting testimony from Dr. Chassin that JCAHO does not rely on outcome measures. (Chassin Tr., 5157:6-9)

3. Quality change at Evanston Hospital. Dr. Chassin testified last week that there was no deterioration in quality at Evanston Hospital, in contradiction to the opinions expressed by Dr. Romano. (Chassin Tr., 5274:6-5275:3; 5301:3-8; 5579:12-14). Dr. Chassin's assertion was based in large part on the claim that the National Registry of Myocardial Infarction (NORMI) data used by Dr. Romano could not properly be used to support Dr. Romano's conclusion due to certain changes in the data format over time. (Chassin Tr., 5274:6-5275:3) Dr. Romano will explain the changes to the NORMI data and how they affect his opinion, if at all.

4. Dr. Chassin's criticisms of Press-Ganey patient satisfaction surveys. Dr. Chassin asserted that the Press-Ganey patient satisfaction surveys suffer from a so called "ceiling effect" and low response rate, and that the mean scores given on the surveys are not a valid way to measure patient satisfaction. (Chassin Tr., 5244:4-5247:18; DX 8063). Dr. Romano will explain the extent to which this purported ceiling effect affects the Press Ganey data at issue, and he will comment on the limited data available regarding response rates and the validity of mean scores on Press-Ganey surveys.

5. The use of standard qualitative research methods. Dr. Chassin also testified that standard qualitative research methods were not required in his analysis for this case, that such methods, commonly accepted by experts in the field, are only required in an investigation of an area not well understood. (Chassin Tr. 5166:9-5168:13). Dr. Romano will explain, from the perspective of a peer reviewer of research, the extent to which Dr. Chassin's choice of research

methods affects his ability to review Dr. Chassin's work.

The testimony Complaint Counsel seeks to enter at this time would be properly submitted during the rebuttal portion of the case. This testimony was not necessary for Complaint Counsel to make its prima facie case during its case-in-chief, and is necessary to rebut issues raised by the testimony of Dr. Chassin.

Respectfully submitted,



John Martin

Steve Vieux

Counsel Supporting the Complaint

Dated: April 6, 2005

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing documents was hand delivered to

The Honorable Stephen J. McGuire
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and served on counsel for the Respondents by electronic and first class mail delivery to:

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