

UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION

IN THE MATTER OF

NORTH TEXAS SPECIALTY PHYSICIANS,  
A CORPORATION.

Docket No. 9312

**RESPONDENT NORTH TEXAS SPECIALTY PHYSICIANS' RESPONSE TO  
COMPLAINT COUNSEL'S SECOND REQUESTS FOR ADMISSIONS**

Respondent North Texas Specialty Physicians ("NTSP" or "Respondent") submits this its Response (including previously served objections) to Complaint Counsel's Second Requests for Admissions to Respondent North Texas Specialty Physicians.

**GENERAL OBJECTIONS**

1. NTSP objects to Complaint Counsel's Second Requests for Admissions to the extent those Requests use terms which vary from normal usage. NTSP also objects to Complaint Counsel's Second Requests for Admissions to the extent those Requests are vague or susceptible of more than one meaning.
2. NTSP objects to the Definitions and Instructions contained in Complaint Counsel's Second Requests for Admissions to the extent those definitions and instructions were objected to by Complaint Counsel in discovery previously served by NTSP in this adjudicative proceeding.
3. NTSP objects to the portion of Definition/Instruction B that seeks to require NTSP to detail what it did to secure unknown information because it is unduly burdensome, potentially seeks information that is protected by the attorney-client and work product privileges, and seeks to impose on NTSP a burden greater than that imposed by 16 C.F.R. § 3.32.

4. NTSP objects to Definition/Instruction M because it is vague and ambiguous.

#### RESPONSES TO REQUESTS FOR ADMISSION

1. Admit that the first “Annual Poll,” as that phrase is used in Fax Alert 62 of September 14, 2001, bearing Bates Number NTSP 014913, conducted by or for NTSP took place in, whole or in part, in September 2001.

**RESPONSE:** Denied.

2. Admit that each “Annual Poll,” as that phrase is used in Fax Alert 62 of September 14, 2001, bearing Bates Number NTSP 014913, conducted by or for NTSP was conducted via “Fax Alert.”

**RESPONSE:** Respondent cannot truthfully admit or deny this request for admission because Respondent does not have sufficient information or knowledge. Respondent has made a reasonable inquiry and the information known to or readily obtainable by Respondent is insufficient to enable it to admit or deny this request for admission.

3. Admit that each survey, poll, or other means through which NTSP solicited or obtained information from participating physicians relating to physician compensation for the provision of future fee-for-service medical services, other than “Annual Polls” as that phrase is used in Fax Alert 62 of September 14, 2001, bearing Bates Number NTSP 014913, pertained to a specific payor(s) identified in the survey, poll, or other means through which NTSP solicited, or related communications.

**RESPONSE:** Denied.

4. Admit that each survey, poll, or other means through which NTSP solicited or obtained information from participating physicians relating to physician compensation for the provision of future fee-for-service medical services, other than “Annual Polls” as that phrase is used in Fax Alert 62 of September 14, 2001, bearing Bates Number NTSP 014913, was conducted via “Fax Alert.”

**RESPONSE:** Respondent cannot truthfully admit or deny this request for admission because Respondent does not have sufficient information or knowledge. Respondent has made a

reasonable inquiry and the information known to or readily obtainable by Respondent is insufficient to enable it to admit or deny this request for admission.

5. Admit that in each instance in which NTSP disseminated to participating physicians information concerning the mean, median, mode, and distribution of physician responses to an "Annual Poll," as that phrase is used in Fax Alert 62 of September 14, 2001, bearing Bates Number NTSP 014913, each such calculation was based on the midpoints of each "minimum acceptable range" identified by or for participating physicians (e.g., the midpoints of each participating physician's specified minimum acceptable range of compensation were summed and then divided by the number of responses to yield the mean).

**RESPONSE:** Respondent cannot truthfully admit or deny this request for admission because Respondent does not have sufficient information or knowledge regarding the proposition stated in the request for admission. Respondent has made a reasonable inquiry and the information known to or readily obtainable by the party is insufficient to enable it to admit or deny this request for admission.

6. Separately for each year from 1995 to the present, admit that NTSP established "Contracted Minimums" as that phrase is used in Fax Alert 62 of September 14, 2001, bearing Bates Number NTSP 014913, whether or not referred to as "Contracted Minimums."

**OBJECTION:** NTSP objects to this request for admission because it is an interrogatory.

NTSP further objects because it is vague and ambiguous. **RESPONSE:** Denied.

7. Separately for each year from 1995 to the present, admit that NTSP utilized minimum contract prices or "Contracted Minimums . . . when negotiating managed care contracts on behalf of its participants," as described in Fax Alert 62 of September 14, 2001, bearing Bates Number NTSP 014913, whether or not referred to as "Contracted Minimums."

**OBJECTION:** NTSP objects to this request for admission because it is an interrogatory.

NTSP further objects because it is vague and ambiguous. **RESPONSE:** Denied.

8. Admit that in response to the concerns of several [NTSP] members, NTSP established the maintaining of a \$200,000/600,000 malpractice insurance limit for its participating physicians as a priority issue on all of its contracts with payors.

**RESPONSE:** Denied.

9. Admit that during the period January 1998 to the present NTSP took one or more actions in furtherance of its objective of maintaining a \$200,000/600,000 malpractice insurance limit for its participating physicians as a priority issue on all of its contracts with payors.

**RESPONSE:** Denied.

10. Admit that during the period January 1998 to the present NTSP made a counter-proposal or -offer in response to one or more payor proposals regarding malpractice insurance limits of coverage for its participating physicians.

**RESPONSE:** Denied.

11. Admit that during the period January 1998 to the present NTSP advised one or more payors that the payor's proposed malpractice insurance limits of coverage for NTSP's participating physicians were unacceptable to NTSP or its participating physicians.

**RESPONSE:** Denied.

12. Admit that during the period January 1998 to the present NTSP advised one or more payors that NTSP would not accept or disseminate to its participating physicians a contract that included the payor's proposed malpractice insurance limits of coverage for NTSP's participating physicians.

**RESPONSE:** Denied.

Respectfully submitted,

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**ATTORNEYS FOR NORTH TEXAS  
SPECIALTY PHYSICIANS**

**CERTIFICATE OF SERVICE**

I, Gregory D. Binns, hereby certify that on January \_\_\_\_, 2004, I caused a copy of the foregoing to be served upon the following persons by First Class mail, e-mail, and/or by Federal Express:

Michael Bloom  
Senior Counsel  
Federal Trade Commission  
Northeast Region  
One Bowling Green, Suite 318  
New York, NY 10004

Office of the Secretary  
Federal Trade Commission  
Room H-159  
600 Pennsylvania Avenue NW  
Washington, D.C. 20580

Hon. D. Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
Room H-104  
600 Pennsylvania Avenue NW  
Washington, D.C. 20580

and by e-mail upon the following: Susan Raitt (sraitt@ftc.gov), and Jonathan Platt (jplatt@ftc.gov).

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Gregory D. Binns

VERIFICATION

I, Karen Van Wagner, Executive Director of North Texas Specialty Physicians, have read the foregoing Respondent North Texas Specialty Physicians' Response to Complaint Counsel's Second Requests for Admissions, and know the contents thereof, and affirm that they are true.

Dated: \_\_\_\_\_, 2004.

\_\_\_\_\_  
Karen Van Wagner  
Executive Director  
NORTH TEXAS SPECIALTY PHYSICIANS

SUBSCRIBED AND SWORN TO BEFORE ME in the County of Tarrant, State of Texas, this  
\_\_\_\_\_ day of January, 2004.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires  
\_\_\_\_\_