

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

_____)
In the Matter of)
NORTH TEXAS SPECIALTY PHYSICIANS) **Docket No. 9312**
_____)

**NONPARTY HUMANA HEALTH PLAN OF TEXAS, INC.’S JOINDER IN NONPARTY
PAYORS’ JOINT EXPEDITED MOTION TO MODIFY THE FIRST REVISED
SCHEDULING ORDER AND TO NARROW DOCUMENT DESIGNATIONS**

Nonparty Humana Health Plan of Texas, Inc. (“*Humana*”) hereby files its Joinder in Nonparty Payors’ Joint Expedited Motion to Modify the First Revised Scheduling Order and to Narrow Document Designations. In support of this Joinder, Humana respectfully shows the Court as follows:

INTRODUCTION

On March 16, 2004, North Texas Specialty Physicians (“*NTSP*”) sent correspondence to counsel for Humana notifying Humana of NTSP’s intent to offer Confidential and Restricted Confidential-Attorney’s Eyes Only Humana documents into evidence at trial. Attached to NTSP’s correspondence was a chart of the Humana documents which NTSP purportedly intends to offer as “exhibits” at trial. See NTSP’s correspondence and chart, attached hereto and incorporated herein as Exhibit “A.”

Even a cursory review of the list of “exhibits” prepared by NTSP indicates that NTSP has essentially designated almost all of the more than 2000 pages of documents produced by Humana as potential “exhibits.” NTSP has not only failed to provide any description of the documents it intends to use as exhibits, but has likewise failed to identify the specific individual(s) to whom it wishes to disclose Humana’s confidential material in accordance with

the Protective Order. NTSP's failures have unduly burdened Humana in its attempts to comply with the current March 29, 2004 deadline to file motions for *in camera* review. Apparently, NTSP prepared similar global "exhibit" designations in connection with documents produced by the other Nonparty Payors, including United Healthcare of Texas, Inc. ("*United*") and Aetna, Inc.

On March 24, 2004, United filed Nonparty Payors' Joint Expedited Motion to Modify the First Revised Scheduling Order and to Narrow Document Designations requesting, among other things, that the Administrative Law Judge require NTSP to: (1) revise the lists of proposed documents produced by the respective Nonparty Payors (including Humana) to reflect only the documents it (NTSP) *actually* intends to use as exhibits at trial; (2) specifically identify the individuals to whom it wishes to show such documents (in accordance with the Protective Order); and (3) extend the date by which the Nonparty Payors must file their motions for *in camera* treatment until April 13, 2004.

Humana hereby joins in Nonparty Payors' Joint Motion, and requests the Administrative Law Judge to grant said Motion and enter an Order in the form submitted with said Motion.

Respectfully submitted,

FULBRIGHT & JAWORSKI L.L.P.

By: _____

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**ATTORNEYS FOR NONPARTY
HUMANA HEALTH PLAN OF TEXAS, INC.**

CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that the foregoing instrument was served on the following on March 24, 2004.

Via Federal Express and E-mail

mjbloom@ftc.gov

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**Attorneys for
North Texas Specialty Physicians**

Via Certified Mail

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Via Federal Express and E-Mail

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FEDERAL TRADE COMMISSION
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Via Federal Express (2 copies)

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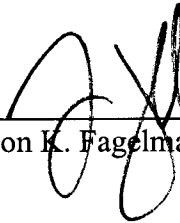
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DALLAS
FORT WORTH
HOUSTON
ALGIERS
MONTERREY
PARIS
RIO DE JANEIRO

March 16, 2004

VIA FEDERAL EXPRESS

Richard S. Krumholz
Counsel for Humana Health Plan of Texas, Inc.
Fulbright & Jaworski LLP
2200 Ross Avenue, Suite 2800
Dallas, TX 75201

Re: North Texas Specialty Physicians, Docket Number 9312

Dear Mr. Krumholz:

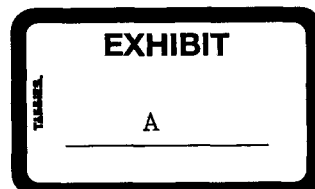
Respondent North Texas Specialty Physicians hereby notifies you of its intent to use documents produced by Humana Health Plan of Texas, Inc. that have been designated either Confidential or Restricted Confidential—Attorney's Eyes Only at the upcoming final hearing in accordance with the Protective Order Governing Discovery Material and 16 C.F.R. § 3.45(b).

Specifically, those documents NTSP intends to use at the hearing are listed on the enclosed document.

NTSP intends at this time to use these documents with expert witnesses in accordance with Protective Order sections 2(b), 4(c), and 5, and with employees or representatives of Humana Health Plan of Texas, Inc.

For documents that have been marked Restricted Confidential, Attorney's Eyes only, NTSP may also use these documents as exhibits and/or show these documents to those witnesses at the hearing who were employed by any entity other than Humana Health Plan of Texas, Inc. that is shown on the face of the document to have been given access to the document. This notice also incorporates by reference NTSP's motion currently pending before the Administrative Law Judge to modify the protective order to allow NTSP's Executive Director Karen Van Wagner access to some of these documents.

For documents that have been marked Confidential, NTSP may also use these documents as exhibits and/or show these documents to one or more other witnesses at the hearing, as allowed under Protective Order section 4(d). NTSP's and Complaint Counsel's proposed

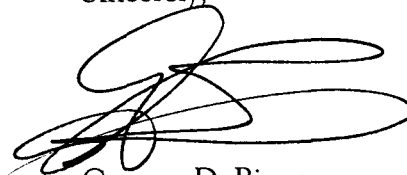


Richard S. Krumholz
March 16, 2004
Page 2

witness lists are enclosed.

NTSP also reserves the right to use as exhibits those documents listed in Complaint Counsel's 16 C.F.R. § 3.45(b) notices of intent to offer into evidence confidential materials. Furthermore, NTSP reserves the right to ask the Administrative Law Judge at the time evidence is presented to allow a representative of NTSP to remain in the hearing to assist counsel.

Sincerely,

A handwritten signature in black ink, appearing to read "Gregory D. Binns", with several large loops and flourishes.

Gregory D. Binns

GDB/nlr

Enclosure

HUMANA

HUM000125-HUM000139
HUM000001-HUM000014
HUM000041-HUM000057
HUM000075-HUM000099
HUM000140-HUM000160
HUM000161-HUM000176
HUM000193-HUM000204
HUM000205-HUM000214
HUM000249-HUM000267
HUM000268-HUM000286
HUM000287-HUM000306
HUM000307-HUM000320
HUM000321-HUM000334
HUM000335-HUM000352
HUM000353-HUM000370
HUM000371-HUM000390
HUM000405-HUM000498
HUM000499-HUM000590
HUM000591-HUM000684
HUM000685-HUM000703
HUM000704-HUM000720
HUM000721-HUM000721
HUM001627-HUM001626
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