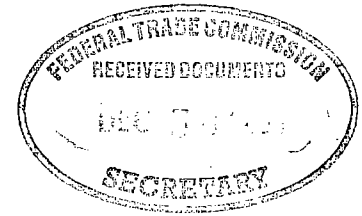


UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION



In the Matter of
NORTH TEXAS SPECIALTY PHYSICIANS,
a corporation.

DOCKET NO. 9312

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

Pursuant to 16 C.F.R. § 3.32, Complaint Counsel hereby requests that Respondent North Texas Specialty Physicians ("NTSP") respond within twenty days of service to the following requests for admission in accordance with the definitions and instructions set forth below.

I.

Definitions and Instructions

Complaint counsel requests and instructs that NTSP answer the following requests for admission in accordance with the following definitions and instructions:

- A. Each request for admission shall be answered separately and fully in writing under oath. The answers are to be signed by the person making them.
- B. If you cannot answer any request for admission in full after exercising due diligence to secure the full information to do so, so state and answer to the extent possible, setting forth in detail the reasons why you cannot truthfully admit or deny the matter and detailing what you did in attempting to secure the unknown information.
- C. "Person" means any natural person, firm, association, partnership, corporation, joint stock company, government, government agency, unincorporated association, trust or other

form of legal entity. The acts and knowledge of a person are defined to include the acts and knowledge of that person's directors, officers, members, employees, representatives, agents, subsidiaries, and attorneys.

- D. "NTSP" refers to Respondent North Texas Specialty Physicians, its employees, representatives, attorneys, agents, past and present participating physicians, directors, officers, and consultants.
- E. The singular includes the plural and vice versa; the terms "and" and "or" shall be both conjunctive and disjunctive; and the past tense includes the present tense and vice versa.
- F. "Payor" means any third-party payor, health maintenance organization, preferred provider organization, fee-for-service indemnity insurance, employer self-insured health benefit plan, Medicare, Medicaid, or any other private or governmental health care plan or insurance of any kind.
- G. "Participating physician" means any physician or physician entity that has contracted with NTSP with regard to the provision or contemplated provision of the physician's services to any hospital, payor, or other physician organization.
- H. "Physician entity" means a sole proprietorship, partnership, foundation, or professional corporation of physicians.
- I. "Physician organization" means any association of physicians including, but not limited to, physician entities and physician independent practice associations.
- J. "Minimum acceptable compensation" means "minimum acceptable compensation" or "minimum acceptable range of compensation" as those or similar phrases are used in the documents provided to the Federal Trade Commission by NTSP bearing Bates numbers

NTSP 003960, 004948, 004634, and 014432, among others.

- K. "Minimum contract price" means "Contracted Minimums" or "Board Minimums" as those or similar phrases are used in the documents provided to the Federal Trade Commission by NTSP bearing Bates numbers NTSP 003960, 004634, 004948, and 014432, among others.
- L. "Aggregated data" means data or information from or pertaining to more than one person that has been altered or manipulated so that the specific identity or response of any person from which the data or information was obtained or to whom it pertains no longer can be discerned. "Aggregated data" includes, for example, arithmetic means, medians, modes, and frequency distributions.
- M. "Material improvements in the quality" of medical services means verifiable and valuable enhancements to qualitative aspects of the practice of medicine, including but not limited to the quality of treatment outcomes.
- N. Your failure to admit any request for admission requires that you supplement your response to admit the matter if you, or any person acting on your behalf, subsequently obtains additional information indicating that the matter should be admitted.

I.

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.
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."

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.
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."
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).
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."

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."
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.
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.
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.
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.
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.

Dated: December 30, 2003

Respectfully submitted,

Michael Bloom/Sarah Croake

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CERTIFICATE OF SERVICE

I, Sarah Croake, hereby certify that on December 30, 2003, I caused a copy of Complaint Counsel's Requests for Admissions to Respondent to be served upon the following persons:

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Sarah Croake
Honors Paralegal