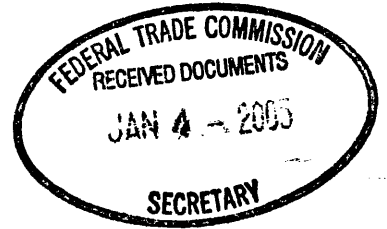


UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION



_____)
In the Matter of)
)
EVANSTON NORTHWESTERN) Docket No. 9315
HEALTHCARE CORPORATION,)
)
a corporation, and)
)
ENH MEDICAL GROUP, INC.,)
a corporation.)
_____)

**NON-PARTY UNITED HEALTHCARE OF ILLINOIS, INC.'S MOTION FOR
EXTENSION OF TIME TO MOVE FOR *IN CAMERA* TREATMENT OF
CERTAIN CONFIDENTIAL DATA**

Pursuant to 16 C.F.R. § 3.22(d), Nonparty United HealthCare of Illinois, Inc. ("United") files this motion to extend the time to move for *in camera* treatment of certain extremely sensitive data relating to, *inter alia*, patient admissions. Complaint Counsel only recently advised United of its intention to designate this data as a trial exhibit.

Under the terms of the Third Revised Scheduling Order dated October 12, 2004 ("Scheduling Order"), parties intending to offer into evidence confidential materials of a non-party were required to provide notice to such non-party of their intention to do so by December 14, 2004. The Scheduling Order also provides that the noticed parties must file their motions for *in camera* treatment by January 4, 2005.

In compliance with the Scheduling Order, Complaint Counsel notified United on December 13, 2004, of its intent to use certain confidential United documents as potential trial exhibits. See letter to Michael Ile from Jeff Dahnke, dated December

13, 2004 (“Dahnke Letter”), attached as Exhibit 2 to United’s Motion For *In Camera* Treatment of Confidential and Competitively Sensitive Documents and Testimony. Complaint Counsel’s list included 10 exhibits. On December 14, 2004, counsel for Respondents Evanston Northwestern Healthcare Corporation and ENH Medical Group, Inc. (collectively “ENH”) also notified United of its intent to use certain confidential United documents as potential trial exhibits. ENH’s list included 75 exhibits. See letter to Elizabeth M. Avery from Charles B. Klein, dated December 14, 2004 (“Klein Letter”), attached as Exhibit 3 to United’s Motion for *In Camera* Treatment of Confidential and Competitively Sensitive Documents and Testimony. Upon receiving these lists of proposed exhibits, United carefully reviewed each of the documents to determine whether the confidential material warranted *in camera* treatment, and in fact determined that it would not seek *in camera* treatment for any of the 10 documents listed by Complaint Counsel, but would seek *in camera* treatment for certain documents on ENH’s list for the reasons set out in the Motion for *In Camera* Treatment of Confidential and Competitively Sensitive Documents and Testimony and the affidavit sworn by Jillian R Foucré on December 27, 2004, filed concurrently with this motion.

However, at 3:49 p.m. on December 30, 2004, Complaint Counsel informed United in an electronic mail message (“E-mail Notice”) that it also intended to designate as a trial exhibit certain electronic files produced by United during the course of discovery, designated as CX 3020, stating the exhibit that “has been added to, or was inadvertently omitted from, the exhibit list” provided to United on December 13, 2004. A copy of the E-mail Notice is attached hereto as Exhibit A.

The files in CX 3020 contain data relating to, *inter alia*, hospital admissions of United members, which is highly commercially sensitive to United's business. Moreover, the information is subject to the protections of the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Because the data contained in the files designated as CX 3020 is voluminous, at the time that United produced these files to Complaint Counsel during the course of discovery, Complaint Counsel entered into a Confidential Treatment Stipulation dated October 4, 2004. By this stipulation, Complaint Counsel agreed that if this admissions data were to be used in trial, Complaint Counsel would support a motion seeking *in camera* treatment for the data. A copy of the Confidential Treatment Stipulation is attached hereto as Exhibit B.¹

Due to the highly confidential and sensitive nature of at least some of the data contained in the files designated as CX 3020, United intends to seek *in camera* treatment for such data, to the extent necessary. However, due to the late notification by Complaint Counsel, immediately prior to the Holiday weekend, United has not had the time necessary to adequately review and consider the large amount of material contained in CX3020 required to properly prepare a motion and supporting affidavit for *in camera* treatment, to the extent necessary, before the January 4, 2005 deadline required by the Scheduling Order.

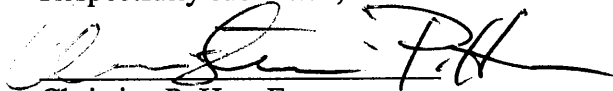
¹ United also entered into a similar agreement with ENH.

Accordingly, United respectfully requests that this motion for extension of time be granted to permit United to file such motion and supporting affidavit for *in camera* treatment on or before January 18, 2005.

We have discussed, in a telephone conversation, this request with Complaint Counsel and Complaint Counsel concurs with our view that additional time to seek in camera treatment for the data contained in CX3020 is appropriate in this instance, and will not oppose this motion.

Dated: January 4, 2005

Respectfully submitted,



Christine P. Hsu, Esq.
WEIL, GOTSHAL & MANGES LLP
1501 K Street
Suite 100
Washington, DC 20005-1411

Helene D. Jaffe, Esq.
Elizabeth M. Avery, Esq.
WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, NY 10153-0119
Telephone: (212) 310-8000
Facsimile: (212) 310-8007

Counsel for Non-Party United HealthCare of Illinois, Inc.

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

In the Matter of

**EVANSTON NORTHWESTERN
HEALTHCARE CORPORATION,**

a corporation, and

ENH MEDICAL GROUP, INC.,

a corporation.

Docket No. 9315

ORDER

Upon consideration of Nonparty United HealthCare of Illinois, Inc.'s ("United") Motion For Extension of Time to Move for *In Camera* Treatment of Certain Confidential Data it is hereby ORDERED that United's motion is GRANTED, extending the time to request *in camera* treatment to January 18, 2005.

The Honorable Stephen J. McGuire
Chief Administrative Law Judge

Dated: January __, 2005





"Dahnke, Jeff"
<JDAHNSKE@ftc.gov>
12/30/2004 03:49 PM

To: Elizabeth Avery/NY/WGM/US@WGM
cc:
Subject: supplement notice

Ms. Avery,

In connection with our earlier notification that Complaint Counsel intend to place certain documents submitted by UHC on our exhibit list in the matter against Evanston Northwestern Healthcare (Docket No. 9315), I'm attaching to this email the image of an additional item that has been added to, or was inadvertently omitted from, the exhibit list. Attached is CX 3020 (listing data files provided by UHC during the investigation) which should have been included in the earlier notice. Should you have any questions, please do not hesitate to contact me at (202) 326-2111.

Jeff Dahnke
Federal Trade Commission
<<CX03020-001.PDF>>



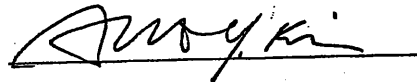
CX03020-001.PDF

**EVANSTON NORTHWESTERN HEALTHCARE CORP. & ENH MEDICAL
GROUP, INC., DOCKET 9315**

CONFIDENTIAL TREATMENT STIPULATION

I, ALBERT Y. KIM, of, FTC, on behalf of
FTC, agree to treat as "Restricted Confidential: Attorneys Eyes Only"
any materials produced by United HealthCare of Illinois, Inc., pursuant Request 3 of the
Subpoena *Duces Tecum* issued by the Federal Trade Commission on July 8, 2004. In the
event that any or all data produced pursuant to that request is to be used at trial,
FTC agrees that such data will be afforded *in camera* treatment.

Signed by



On behalf of:

FTC

Dated: 4 Oct - 2004

CERTIFICATE OF SERVICE

I, Anant Raut, hereby certify that on January 4, 2005, I caused a true and correct copy of United HealthCare of Illinois, Inc.'s Motion For Extension of Time to Move for *In Camera* Treatment of Certain Confidential Data, to be served on the following persons:

By hand delivery:

Hon. Stephen McGuire
Chief Administrative Law Judge
Federal Trade Commission
Room H-112
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

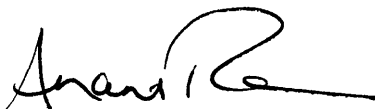
By Federal Express:

David Dahlquist
Winston & Strawn LLP
35 W. Wacker Drive
Chicago, Illinois 60601-9703
Counsel to Evanston Northwestern Healthcare Corporation
and ENH Medical Group, Inc.

By Federal Express:

Thomas Brock, Esq.
Federal Trade Commission
600 Pennsylvania Ave. NW
Room H-360
Washington, DC 20580

Jeffrey Dahnke
Federal Trade Commission
Room 5231
601 New Jersey Ave. NW
Washington, DC 2001
Counsel for the Federal Trade Commission



Anant Raut