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October 8, 2002

RE: Competition in Healthcare Workshop
September 9-10, 2002

Donald S. Clark
Office of the Secretary
Federal Trade Commission
600 Pennsylvania Ave, NW
Washington, D.C. 20580

Dear Mr. Clark:

I am writing in request to your seeking information responsive to competition in healthcare, specifically for your planned workshop on September 9 and 10 in Washington, D.C. I wish to briefly explain my current situation in Springfield, Missouri where I am an Obstetrician/Gynecologist in a small group practice. My group filed a federal antitrust lawsuit against St. John's Health System (SJHS) and St. John's Physicians and Clinic (SJPC) over restrictive contractual arrangements with payors and providers on May 24th, 2001 alleging certain anticompetitive behavior. I have taken the liberty to enclose our complaint (attachment 1) for your perusal.

Springfield is not unlike many other communities, which saw rapid consolidation and acquisition in the health care markets in the early 1990's. Our community would best be described as a health care duopoly with its two dominant acute care hospitals (St. John's and Cox) buying a supermajority of physicians and forming separate Integrated Delivery Systems (St. John's Health System and CoxHealth System). While Cox employs a large number of physicians it conducts business through its Physician Hospital Organization. Concurrently, SJHS employs a modified staff model HMO through its member: St. John's Physicians and Clinics. Each health system has formed their own for profit insurance company: Mercy Health Plans d/b/a Premier Health Plan for SJHS; CoxHealth utilizes Cox-Freeman Health Plans. Each Health System directly controls/owns its own Provider Network which is utilized by various third party payors, large self funded employer groups, other managed care organizations as well as government sponsored plans (Medicare/Medicaid).

Physician providers in our area are dependant on one or the other of these networks for access to patients (and patients rely on the networks for access to providers). The acquisition of physician practices occurred at such a rapid pace that the Attorney General of Missouri, Mr. Jay Nixon, expressed concern that the citizens of Southwest Missouri might suffer unreasonably from disruption of physician services if SJHS were to enforce certain of its restrictive covenants with its employed physicians. So much alarmed was the Attorney General that in 1995 he issued a "Compromise and Settlement Agreement" (attachment 2) with SJHS which limited for a certain time, the number of physician practices it could acquire.

Mr. Nixon expressed admirable concern over SJHS business tactics however, the "Compromise and Settlement Agreement" expired December 1997. The expiration of this agreement is truly tragic, as over 200 physicians have left their employment with SJHS encompassing the period 1996-2001. The Greene County Medical Society expressed a great amount of concern over the huge "talent drain of mature professional individuals who are the fabric of our community" in a July 2001 memo (attachment 3) to its membership. "This is a terrible disruption and loss for thousands of patients...this number of physician departures is unprecedented." The AMA responded to the situation in Springfield stating it hoped the divisive issues at hand be quickly resolved. Unfortunately, this situation persists today. These fine physicians have left our community because of an integrated web of various anticompetitive contracts with which SJHS (as well as CoxHealth) require of its Network Providers and those who seek to purchase services from these two networks (which are the only networks available to consumers).

The concentration of market power by these two health system has kept outside parties from entering into this market to compete for healthcare consumers. Physician providers must become Network Affiliate providers for one network or the other or be unable to sustain a viable medical practice. Third Party Payors and Managed Care Organizations (MCO's) must access a wide panel of providers to provide for their constituency. Cox and St. John's own the only two provider Networks in this market. The media is ripe with stories about the increasing costs associated with obtaining health care in Springfield (attachment 4). Such is the effect of two dominant, market controlling health care providers which also own insurance products that may be used to drive prices upward. Additionally, physicians in solo independent practice as well as small group practice suffer because of the concentration of power obtained by these two giants. (See attachment 5, AMA executive summary "Competition in Health Care", November 2001).

At the same time that we are unable to recruit additional physicians for our small group practice (Woman's Clinic) because of a SJHS Network denial; their subsidiary (St. John's Physicians and Clinics) has recruited 4 obstetrician/gynecologists and obtained Network affiliation for each! Additionally, both SJHS and CoxHealth are currently undergoing significant campus expansion with addition of certain medical services. Inquiry of each system's Certificate of Need shows these expansions to be in excess of four hundred million dollars. This occurs on a backdrop of economic hardship for the many small businesses our community has. Several such businesses have had to go out of business or relocate from our community; often citing health care costs as negatively affecting their already thin bottom lines.

While our current private litigation has a trial date of May 2003, we should not have to resort to financing and enduring such a hardship to assure a competitive arena for small group practices and solo practitioners for the benefit of healthcare consumers in Springfield. While we feel strong about the merits of our specific federal lawsuit we are concerned about the fate of our population at the hands of such market prowess exhibited by St. John's and CoxHealth. It is hoped that the Federal Trade Commission will further engage at a strong look at our market dynamics, as well as the consolidation and acquisition of healthcare providers in the Springfield Market to ensure a healthy, beneficial arena of competition. With true competition in the Springfield healthcare market consumers will surely reap many benefits through lowered costs and improved quality of services available.

Sincerely,

David L. Redfern, MD

Attachments:

1. Amended Complaint: Woman's Clinic v SJHS/SJPC
2. "Compromise and Settlement Agreement" between SJHS and State of Missouri
3. Greene County Medical Society Memo July 2001
Letter from Ms. Rosary Payne, Counsel for the AMA
4. Various media reports of increased health care costs in Springfield,
2001 Commerce Annual economic survey noting Springfield's businesses concerns
5. AMA Executive Summary "Competition in Healthcare", November 2001

