

UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION

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<b>In the Matter of</b>	)	
	)	<b>DOCKET NO. C-</b>
	)	
<b>ANESTHESIA SERVICE MEDICAL</b>	)	
<b>GROUP, INC.,</b>	)	
<b>a corporation.</b>	)	

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COMPLAINT

The Federal Trade Commission (“Commission”), having reason to believe that Anesthesia Service Medical Group, Inc., a California corporation, (“Respondent” or “ASMG”) has violated Section 5 of the Federal Trade Commission Act (“FTC Act”), as amended, 15 U.S.C. § 45, and it appearing to the Commission that this proceeding is in the public interest, alleges:

**PARAGRAPH 1:** Anesthesia Service Medical Group, Inc. (“ASMG”) is a professional corporation organized, existing, and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 3626 Ruffin Road, San Diego, CA 92123. ASMG employs approximately 180 anesthesiologists.

**PARAGRAPH 2:** Grossmont Anesthesia Services Medical Group, Inc. (“GAS”) is a professional corporation organized, existing, and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 5101 Garfield Street, La Mesa, CA 91941. GAS is composed of approximately 10 anesthesiologists.

**PARAGRAPH 3:** At all times relevant to this Complaint, ASMG and GAS have provided, and do provide, anesthesia services for a fee to patients in San Diego County, California.

**PARAGRAPH 4:** Except to the extent that competition has been restrained as alleged in this Complaint, ASMG and GAS have competed, and do compete, with each other to provide anesthesia services in San Diego County, California.

**PARAGRAPH 5:** ASMG and GAS anesthesiologists are, or have been, members of the medical staff of Grossmont Hospital in La Mesa, a municipality in central San Diego County, California. ASMG and GAS anesthesiologists make up approximately 75 percent of the anesthesiologists with active medical staff privileges at Grossmont Hospital and work on approximately 70 percent of the cases that require anesthesia services at the hospital.

**PARAGRAPH 6:** Respondent is, and at all relevant times has been, engaged in commerce, as

“commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

**PARAGRAPH 7:** Respondent is, and at all relevant times has been, a corporation, as “corporation” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

### **DELIVERY OF ANESTHESIA SERVICES IN SAN DIEGO COUNTY**

**PARAGRAPH 8:** Anesthesiologists provide anesthesia services to patients primarily at general acute care hospitals and outpatient surgery centers. Those services include evaluating a patient before surgery, consulting with the surgical team, providing pain control and support-of-life functions during surgery, supervising care after surgery in the recovery unit, and medically discharging the patient from the recovery unit.

**PARAGRAPH 9:** In addition to working on scheduled surgical procedures, anesthesiologists work on unscheduled obstetric and emergency cases at general acute care hospitals. An anesthesiologist who remains available to work on unscheduled cases is said to be “taking call.”

**PARAGRAPH 10:** Anesthesiologists in San Diego County are reimbursed for their services from several sources. Health insurance companies and other third-party payors typically reimburse anesthesiologists for services rendered to their subscribers during scheduled and unscheduled medical procedures and obstetrical cases through contracts that establish fees and other competitively significant terms. In addition, some hospitals pay anesthesiologists “stipends” for taking call and/or for rendering services to uninsured patients. Some hospitals pay anesthesiologists stipends through contracts that establish a stipend amount and other competitively significant terms.

**PARAGRAPH 11:** Absent agreements among competing anesthesiologists, competing anesthesiologists or anesthesiology groups decide independently whether to seek a stipend from a hospital and the amount of the stipend. They also decide independently whether they will terminate or restrict the services they provide to unscheduled or uninsured patients if the hospital refuses to pay them a stipend or if they are dissatisfied with the stipend.

**PARAGRAPH 12:** Grossmont Hospital does not now, and has not in the past, paid its anesthesiologists a stipend for taking call or for rendering services to uninsured emergency room patients.

### **AGREEMENT TO RESTRAIN TRADE**

**PARAGRAPH 13:** As early as February 2001, ASMG and GAS discussed between themselves a joint strategy to secure stipends from Grossmont Hospital for taking obstetric call and for rendering services to uninsured emergency room patients. As part of these communications,

ASMG and GAS discussed stipend amounts that they both would demand from Grossmont Hospital. Eventually, ASMG and GAS agreed on the stipend amount both groups would demand from Grossmont Hospital for taking obstetric call.

**PARAGRAPH 14:** In July 2001, ASMG sent a formal request to Grossmont Hospital on behalf of ASMG anesthesiologists for a daily obstetric stipend of \$1,000, which was the price ASMG had agreed upon with GAS. ASMG also mentioned that it would be sending the hospital a separate proposal regarding a stipend for the uninsured emergency room patients. Grossmont Hospital rejected ASMG's proposal, and ASMG communicated this rejection to GAS. In response, ASMG and GAS discussed between themselves whether they would reduce the hours for which they would take call. They agreed to maintain a solid front against the hospital to prevent the hospital from (1) negotiating separately with each group to reduce the amount of the stipend or (2) seeking services solely from one group to the exclusion of the other. ASMG and GAS also agreed to meet with Grossmont Hospital administrators and agreed on a strategy for the meeting.

**PARAGRAPH 15:** In January 2002, ASMG and GAS met jointly with Grossmont Hospital administrators to discuss their demands for stipends for taking obstetric call and for rendering services to uninsured emergency room patients. At that meeting, ASMG and GAS demanded that the hospital pay them stipends, but the hospital refused. In March 2002, ASMG and GAS again discussed between themselves the hospital's refusal to pay them stipends. ASMG and GAS also discussed reducing their hours of availability for taking call to increase their negotiating power with the hospital.

**PARAGRAPH 16:** Through the acts and practices described above, ASMG has agreed, combined, or conspired with GAS to restrain competition by, among other things, facilitating, negotiating, entering into, and/or implementing agreements between itself and GAS on fees, quantity of anesthesia services provided, and other competitively significant terms.

**PARAGRAPH 17:** Respondent's acts and practices described above constitute unfair methods of competition in violation of Section 5 of the FTC Act, 15 U.S.C. § 45. Such acts and practices or their effects are continuing and will continue or recur in the absence of the relief requested.

**WHEREFORE, THE PREMISES CONSIDERED,** the Federal Trade Commission on this \_\_\_\_\_ day of \_\_\_\_\_, 2003, issues its Complaint against Respondent.

By the Commission.

Donald S. Clark  
Secretary

SEAL: