

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS: Deborah Platt Majoras, Chairman
Pamela Jones Harbour
Jon Leibowitz
William E. Kovacic
J. Thomas Rosch

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In the Matter of)	
)	
Advocate Health Partners,)	
a corporation,)	
Advocate Bethany Health Partners,)	
a corporation,)	
Advocate Christ Hospital Health Partners,)	
a corporation,)	
Advocate Good Samaritan Health Partners, Ltd.,)	
a corporation,)	
Advocate Good Shepherd Health Partners, Ltd.,)	Docket No. C-
a corporation,)	
Advocate Health Centers, Inc.,)	
a corporation,)	
Advocate Illinois Masonic Health Partners,)	
a corporation,)	
Advocate Lutheran General Health Partners, Inc.,)	
a corporation,)	
Advocate-South Suburban Health Partners,)	
a corporation,)	
Advocate Trinity Health Partners,)	
a corporation, and)	
Dreyer Clinic, Inc.,)	
a corporation.)	
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DECISION AND ORDER

The Federal Trade Commission (“Commission”), having initiated an investigation of certain acts and practices of Advocate Health Partners (“AHP”), Advocate Bethany Health Partners, Advocate Christ Hospital Health Partners, Advocate Good Samaritan Health Partners, Ltd., Advocate Good Shepherd Health Partners, Ltd., Advocate Health Centers, Inc., Advocate Illinois Masonic Health Partners, Advocate Lutheran General Health Partners, Inc., Advocate-South Suburban Health Partners, Advocate Trinity Health Partners, and Dreyer Clinic, Inc., hereinafter referred to collectively as “Respondents,” and Respondents having been furnished thereafter with a copy of the draft of Complaint that counsel for the Commission proposed to present to the Commission for its consideration and which, if issued, would charge Respondents with violations of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45; and

Respondents, their attorney, and counsel for the Commission having thereafter executed an Agreement Containing Consent Order to Cease and Desist (“Consent Agreement”), containing an admission by Respondents of all the jurisdictional facts set forth in the aforesaid draft of Complaint, a statement that the signing of said Consent Agreement is for settlement purposes only and does not constitute an admission by Respondents that the law has been violated as alleged in such Complaint, or that the facts as alleged in such Complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission’s Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that Respondents have violated said Act, and that a Complaint should issue stating its charges in that respect, and having accepted the executed Consent Agreement and placed such Consent Agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, now in further conformity with the procedure described in Commission Rule 2.34, 16 C.F.R. § 2.34, the Commission hereby issues its Complaint, makes the following jurisdictional findings, and issues the following Order:

1. Respondent AHP is a not-for-profit corporation, organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its principal address at 1661 Feehanville, Suite 200, Mount Prospect, IL 60058.
2. Respondent Advocate Bethany Health Partners is a not-for-profit corporation, organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its principal address at c/o Health Partners Operations - Advocate Health Partners, 1661 Feehanville, Suite 200, Mount Prospect, IL 60058.
3. Respondent Advocate Christ Hospital Health Partners is a not-for-profit corporation, organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its principal address at c/o Health Partners Operations - Advocate Health Partners, 1661 Feehanville, Suite 200, Mount Prospect, IL 60058.
4. Respondent Advocate Good Samaritan Health Partners, Ltd. is a for-profit corporation, organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its principal address at c/o Health Partners Operations - Advocate Health Partners, 1661 Feehanville, Suite 200, Mount Prospect, IL 60058.
5. Respondent Advocate Good Shepherd Health Partners, Ltd. is a not-for-profit corporation, organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its principal address at c/o Health Partners Operations - Advocate Health Partners, 1661 Feehanville, Suite 200, Mount Prospect, IL 60058.
6. Respondent Advocate Health Centers, Inc. is a for-profit corporation, organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its principal address at 2545 S. Dr. Martin Luther King Drive, Chicago, IL 60616.
7. Respondent Advocate Illinois Masonic Health Partners is a not-for-profit corporation, organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its principal address at c/o Health Partners Operations - Advocate Health Partners, 1661 Feehanville, Suite 200, Mount Prospect, IL 60058.

8. Respondent Advocate Lutheran General Health Partners, Inc. is a not-for-profit corporation, organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its principal address at c/o Health Partners Operations - Advocate Health Partners, 1661 Feehanville, Suite 200, Mount Prospect, IL 60058.
9. Respondent Advocate-South Suburban Health Partners is a not-for-profit corporation, organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its principal address at c/o Health Partners Operations - Advocate Health Partners, 1661 Feehanville, Suite 200, Mount Prospect, IL 60058.
10. Respondent Advocate Trinity Health Partners is a not-for-profit corporation, organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its principal address at c/o Health Partners Operations - Advocate Health Partners, 1661 Feehanville, Suite 200, Mount Prospect, IL 60058.
11. Respondent Dreyer Clinic, Inc. is a for-profit corporation, organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its principal address at 1877 West Downer Place, Aurora, IL 60506.
12. Advocate Health and Hospitals Corporation is a not-for-profit corporation, organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its principal address at 2025 Windsor Drive, Oak Brook, IL 60523.
13. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Respondents, and the proceeding is in the public interest.

ORDER

I.

IT IS ORDERED that, as used in this Order, the following definitions shall apply:

- A. “Respondent AHP” means AHP, its officers, directors, employees, agents, attorneys, representatives, successors, and assigns; and the subsidiaries, divisions, groups, and affiliates controlled by it, and the respective officers, directors, employees, agents, attorneys, representatives, successors, and assigns of each.
- B. “Respondent Advocate Bethany Health Partners” means Advocate Bethany Health Partners, its officers, directors, employees, agents, attorneys, representatives, successors, and assigns; and the subsidiaries, divisions, groups, and affiliates controlled by it, and the respective officers, directors, employees, agents, attorneys, representatives, successors, and assigns of each.
- C. “Respondent Advocate Christ Hospital Health Partners” means Advocate Christ Hospital Health Partners, its officers, directors, employees, agents, attorneys, representatives, successors, and assigns; and the subsidiaries, divisions, groups, and affiliates controlled

by it, and the respective officers, directors, employees, agents, attorneys, representatives, successors, and assigns of each.

- D. “Respondent Advocate Good Samaritan Health Partners, Ltd.” means Advocate Good Samaritan Health Partners, Ltd., its officers, directors, employees, agents, attorneys, representatives, successors, and assigns; and the subsidiaries, divisions, groups, and affiliates controlled by it, and the respective officers, directors, employees, agents, attorneys, representatives, successors, and assigns of each.
- E. “Respondent Advocate Good Shepherd Health Partners, Ltd.” means Advocate Good Shepherd Health Partners, Ltd., its officers, directors, employees, agents, attorneys, representatives, successors, and assigns; and the subsidiaries, divisions, groups, and affiliates controlled by it, and the respective officers, directors, employees, agents, attorneys, representatives, successors, and assigns of each.
- F. “Respondent Advocate Health Centers, Inc.” means Advocate Health Centers, Inc. its officers, directors, employees, agents, attorneys, representatives, successors, and assigns; and the subsidiaries, divisions, groups, and affiliates controlled by it, and the respective officers, directors, employees, agents, attorneys, representatives, successors, and assigns of each.
- G. “Respondent Advocate Illinois Masonic Health Partners” means Advocate Illinois Masonic Health Partners, its officers, directors, employees, agents, attorneys, representatives, successors, and assigns; and the subsidiaries, divisions, groups, and affiliates controlled by it, and the respective officers, directors, employees, agents, attorneys, representatives, successors, and assigns of each.
- H. “Respondent Advocate Lutheran General Health Partners, Inc.” means Advocate Lutheran General Health Partners, Inc., its officers, directors, employees, agents, attorneys, representatives, successors, and assigns; and the subsidiaries, divisions, groups, and affiliates controlled by it, and the respective officers, directors, employees, agents, attorneys, representatives, successors, and assigns of each.
- I. “Respondent Advocate-South Suburban Health Partners” means Advocate-South Suburban Health Partners, its officers, directors, employees, agents, attorneys, representatives, successors, and assigns; and the subsidiaries, divisions, groups, and affiliates controlled by it, and the respective officers, directors, employees, agents, attorneys, representatives, successors, and assigns of each.
- J. “Respondent Advocate Trinity Health Partners” means Advocate Trinity Health Partners, its officers, directors, employees, agents, attorneys, representatives, successors, and assigns; and the subsidiaries, divisions, groups, and affiliates controlled by it, and the respective officers, directors, employees, agents, attorneys, representatives, successors, and assigns of each.

- K. “Respondent Dreyer Clinic, Inc.” means Dreyer Clinic, Inc., its officers, directors, employees, agents, attorneys, representatives, successors, and assigns; and the subsidiaries, divisions, groups, and affiliates controlled by it, and the respective officers, directors, employees, agents, attorneys, representatives, successors, and assigns of each.
- L. “Advocate Health and Hospitals Corporation” means Advocate Health and Hospitals Corporation, its officers, directors, employees, agents, attorneys, representatives, successors, and assigns; and the subsidiaries, divisions, groups, and affiliates controlled by it, and the respective officers, directors, employees, agents, attorneys, representatives, successors, and assigns of each.
- M. “Advocate Hospital” means Advocate Bethany Hospital, Advocate Christ Medical Center, Advocate Good Samaritan Hospital, Advocate Good Shepherd Hospital, Advocate Illinois Masonic Medical Center, Advocate Lutheran General Hospital, Advocate South Suburban Hospital, or Advocate Trinity Hospital.
- N. “Advocate System Physicians” means those physicians whose physician services are provided to payors by Advocate Health and Hospitals Corporation, Advocate Health Centers, Inc., or Dreyer Clinic, Inc. and for which such entity receives all financial remuneration from the payor for the physician services.
- O. “Non-exclusive arrangement” means an arrangement that does not restrict the ability of, or facilitate the refusal of, physicians who participate in it to deal with payors on an individual basis or through any other arrangement.
- P. “Medical group practice” means a bona fide, integrated firm in which physicians practice medicine together as partners, shareholders, owners, or employees, or in which only one physician practices medicine.
- Q. “Participate” in an entity or an arrangement means (1) to be a partner, shareholder, owner, member, or employee of such entity or arrangement, or (2) to provide services, agree to provide services, or offer to provide services to a payor through such entity or arrangement. This definition applies to all tenses and forms of the word “participate,” including, but not limited to, “participating,” “participated,” and “participation.”
- R. “Payor” means any person that pays, or arranges for payment, for all or any part of any physician services for itself or for any other person, as well as any person that develops, leases, or sells access to networks of physicians.
- S. “Person” means both natural persons and artificial persons, including, but not limited to, corporations, unincorporated entities, and governments.
- T. “Physician” means a doctor of allopathic medicine (“M.D.”), a doctor of osteopathic medicine (“D.O.”), or a doctor of podiatric medicine (“D.P.M.”).

- U. “Preexisting contract” means a contract for the provision of physician services that was in effect on the date of the receipt by a payor that is a party to such contract of notice sent by Respondent AHP pursuant to Paragraph V.A.2. of this Order, or by any Respondent pursuant to Paragraph VII. of this Order, of such payor’s right to terminate such contract.
- V. “Principal address” means either (1) primary business address, if there is a business address, or (2) primary residential address, if there is no business address.
- W. The “Program” means the non-exclusive arrangement that AHP refers to as its Clinical Integration Program, which was implemented by AHP on January 1, 2004, with respect to fee-for-service contracts with payors, and which requires participating physicians to agree to adhere to certain health care information technology, quality, and cost/utilization initiatives, as well as to being monitored and subjected to a system of enforcement mechanisms consisting of financial incentives and sanctions, including termination from the Program; *provided further*, that the Program includes modifications to those initiatives and those monitoring and enforcement mechanisms that are related to improving quality of care or reducing health care costs.
- X. “Qualified clinically-integrated joint arrangement” means an arrangement to provide physician services in which:
1. all physicians who participate in the arrangement participate in active and ongoing programs of the arrangement to evaluate and modify the practice patterns of, and create a high degree of interdependence and cooperation among, the physicians who participate in the arrangement, in order to control costs and ensure the quality of services provided through the arrangement; and
 2. any agreement concerning price or other terms or conditions of dealing entered into by or within the arrangement is reasonably necessary to obtain significant efficiencies that result from such integration through the arrangement.
- Y. “Qualified risk-sharing joint arrangement” means an arrangement to provide physician services in which:
1. all physicians who participate in the arrangement share substantial financial risk through their participation in the arrangement and thereby create incentives for the physicians who participate jointly to control costs and improve quality by managing the provision of physician services such as risk-sharing involving:
 - a. the provision of physician services at a capitated rate,
 - b. the provision of physician services for a predetermined percentage of premium or revenue from payors,
 - c. the use of significant financial incentives (*e.g.*, substantial withholds) for physicians who participate to achieve, as a group, specified cost-containment goals, or

- d. the provision of a complex or extended course of treatment that requires the substantial coordination of care by physicians in different specialties offering a complementary mix of services, for a fixed, predetermined price, when the costs of that course of treatment for any individual patient can vary greatly due to the individual patient's condition, the choice, complexity, or length of treatment, or other factors; and
 - 2. any agreement concerning price or other terms or conditions of dealing entered into by or within the arrangement is reasonably necessary to obtain significant efficiencies that result from such integration through the arrangement.
- Z. "Qualified arrangement" means a qualified clinically-integrated joint arrangement or a qualified risk-sharing joint arrangement.

II.

IT IS FURTHER ORDERED that each Respondent, directly or indirectly, or through any corporate or other device, in connection with the provision of physician services in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44, cease and desist from:

- A. Entering into, adhering to, participating in, maintaining, organizing, implementing, enforcing, or otherwise facilitating any combination, conspiracy, agreement, or understanding between or among any physicians with respect to their provision of physician services:
 - 1. To negotiate on behalf of any physician with any payor;
 - 2. To deal, refuse to deal, or threaten to refuse to deal with any payor;
 - 3. Regarding any term, condition, or requirement upon which any physician deals, or is willing to deal, with any payor, including, but not limited to, price terms; or
 - 4. Not to deal individually with any payor, or not to deal with any payor other than through any Respondent(s);
- B. Exchanging or facilitating in any manner the exchange or transfer of information among physicians concerning any physician's willingness to deal with a payor, or the terms or conditions, including price terms, on which the physician is willing to deal with a payor;
- C. Attempting to engage in any action prohibited by Paragraphs II.A. or II.B. above; and
- D. Encouraging, suggesting, advising, pressuring, inducing, or attempting to induce any person to engage in any action that would be prohibited by Paragraphs II.A. through II.C. above.

PROVIDED, HOWEVER, that nothing in this Paragraph II. shall prohibit any agreement or conduct:

(a) involving any Respondent that, subject to the requirements of Paragraph IV. of this Order, is reasonably necessary to form, participate in, or take any action in furtherance of, a qualified arrangement, so long as, for three years from the date this Order becomes final, such qualified joint arrangement is a non-exclusive arrangement;

(b) solely involving Advocate System Physicians; or

(c) where such agreement or conduct is solely related to Respondents' participation in the Program;

provided further that: (1) nothing in this Order shall be construed as a determination by the Commission, or its staff, that the Program is, or was at any time, a qualified arrangement; and (2) this proviso (c) to Paragraph II. of the Order is a determination by the Commission, and its staff, only that participation in the Program shall not constitute a violation of this Order and is not a determination that such participation does or does not violate any law enforced by the Commission.

III.

IT IS FURTHER ORDERED that, for three (3) years from the date this Order becomes final, for any arrangement under which any Respondent would act as an agent, or as a messenger, on behalf of any physician, or any medical group practice, with any payor regarding contracts, such Respondent shall notify the Secretary of the Commission in writing ("Paragraph III. Notification") at least sixty (60) days prior to participating in the arrangement for which Paragraph III. Notification is required. The Paragraph III. Notification shall include the number of proposed physician participants in the proposed arrangement; the proposed geographic area in which the proposed arrangement would operate; a copy of any proposed physician participation agreement; a description of the proposed arrangement's purpose and function; a description of any resulting efficiencies expected to be obtained through the proposed arrangement; and a description of procedures to be implemented to limit possible anticompetitive effects of the proposed arrangement, such as those prohibited by this Order.

PROVIDED FURTHER that:

(a) if, within sixty (60) days from the date of the Commission's receipt of the Paragraph III. Notification, a representative of the Commission makes a written request for additional information to the Respondent providing such notification, then that Respondent shall not participate in the proposed arrangement prior to the expiration of thirty (30) days after substantially complying with such request, or such shorter waiting period as may be granted in writing from the Bureau of Competition;

(b) the expiration of any waiting period described herein without a request for additional information, or without the initiation of an enforcement proceeding, shall not be construed as a determination by the Commission, or its staff, that the proposed arrangement does or does not violate this Order or any law enforced by the Commission;

(c) the absence of notice that the proposed arrangement has been rejected, regardless of a request for additional information, shall not be construed as a determination by the Commission, or its staff, that the proposed arrangement has been approved;

(d) receipt by the Commission of any Paragraph III. Notification is not to be construed as a determination by the Commission, or its staff, that the proposed arrangement does or does not violate this Order or any law enforced by the Commission; and

(e) Paragraph III. Notification shall not be required prior to participating in any arrangement described at Paragraph III. of this Order pursuant to: (i) the Program; (ii) an arrangement solely involving Advocate System Physicians; or (iii) participation in any arrangement for which Paragraph III. Notification has previously been given.

IV.

IT IS FURTHER ORDERED that for three (3) years from the date this Order becomes final, pursuant to each qualified arrangement in which any Respondent is a participant, that Respondent shall notify the Secretary of the Commission in writing (“Paragraph IV. Notification”) at least sixty (60) days prior to:

- A. Participating in, organizing, or facilitating any discussion or understanding with or among any physicians, or medical group practices, in such qualified arrangement relating to price or other terms or conditions of dealing with any payor; or
- B. Contacting a payor, pursuant to a qualified arrangement, to negotiate or enter into any agreement concerning price or other terms or conditions of dealing with any payor, on behalf of any physician or medical group practice in such qualified arrangement.

PROVIDED FURTHER that Paragraph IV. Notification shall include the following information regarding the qualified arrangement pursuant to which any Respondent intends to engage in the above identified conduct:

- a. the number of physicians in each specialty participating in the qualified arrangement;
- b. a description of the qualified arrangement, including its purpose and geographic area of operation;
- c. a description of the nature and extent of the integration and the efficiencies resulting from the qualified arrangement;
- d. an explanation of the relationship of any agreement on prices, or contract terms related to price, to furthering the integration and achieving the efficiencies of the qualified arrangement;
- e. a description of any procedures proposed to be implemented to limit possible anticompetitive effects resulting from the qualified arrangement or its activities; and

- f. all studies, analyses, and reports that were prepared for the purpose of evaluating or analyzing competition for physician services in any relevant market, including, but not limited to, the market share of physician services in any relevant market.

PROVIDED FURTHER that:

- (a) if, within sixty (60) days from the Commission's receipt of the Paragraph IV. Notification, a representative of the Commission makes a written request for additional information to the Respondent providing such Paragraph IV Notification, that Respondent shall not participate in any arrangement described in Paragraph IV.A. or Paragraph IV.B. of this Order prior to the expiration of thirty (30) days after substantially complying with such request for additional information, or such shorter waiting period as may be granted in writing from the Bureau of Competition;
- (b) the expiration of any waiting period described herein without a request for additional information, or without the initiation of an enforcement proceeding, shall not be construed as a determination by the Commission, or its staff, that the proposed arrangement does or does not violate this Order or any law enforced by the Commission;
- (c) the absence of notice that the qualified arrangement has been rejected, regardless of a request for additional information, shall not be construed as a determination by the Commission, or its staff, that the qualified arrangement has been approved;
- (d) receipt by the Commission of any Paragraph IV. Notification regarding participation pursuant to a qualified arrangement is not to be construed as a determination by the Commission that any such qualified arrangement does or does not violate this Order or any law enforced by the Commission; and
- (e) Paragraph IV. Notification shall not be required prior to participating in: (i) the Program; or (ii) any arrangement described at Paragraph IV.A. or Paragraph IV.B. of this Order solely involving Advocate System Physicians or any qualified arrangement for which Paragraph IV Notification has previously been given.

V.

IT IS FURTHER ORDERED that Respondent AHP shall:

- A. Within thirty (30) days after the date on which this Order becomes final, send a copy of this Order and the Complaint by:
 - 1. first-class mail with delivery confirmation or electronic mail with return confirmation to:
 - a. every physician, excluding Advocate System Physicians, who participates, or has participated, in any Respondent at any time since January 1, 2001;
 - b. each current officer, director, manager, and employee, excluding Advocate System Physicians, of each Respondent; and

- c. each current officer, director, and manager of Advocate Health and Hospitals Corporation, Advocate Health Centers, Inc., or Dreyer Clinic, Inc.; and
 2. first-class mail, return receipt requested, and with the letter attached as Appendix 1 to this Order, to the chief executive officer of each payor with whom any Respondent has a record of being in contact since January 1, 2001, regarding contracting for the provision of physician services; *provided, however*, that a copy of Appendix 1 need not be included in the mailings to those payors identified at Appendix 2.
- B. Terminate, without penalty or charge, and in compliance with any applicable laws, any preexisting contract with any payor for the provision of provider services, excluding those payors identified at Appendix 2, at the earlier of: (1) receipt by Respondent AHP of a written request to terminate such contract from any payor that is a party to the contract, or (2) the earliest termination date, renewal date (including any automatic renewal date), or the anniversary date of such contract; *provided, however*, a preexisting contract may extend beyond any such termination date, renewal date, or anniversary date no later than one (1) year after the date that the Order becomes final if, prior to such termination, renewal, or anniversary date, (a) the payor submits to Respondent AHP a written request to extend such contract to a specific date no later than one (1) year after the date that this Order becomes final, and (b) Respondent AHP has determined not to exercise any right to terminate under the terms of the contract; *provided further*, that any payor making such request to extend a contract retains the right, pursuant to part (1) of Paragraph V.B. of this Order, to terminate the contract at any time.
- C. Within ten (10) days of receiving a written request from a payor, pursuant to Paragraph V.B. of this Order, distribute, by first-class mail, return receipt requested, a copy of that request to each physician, excluding Advocate System Physicians, participating in such contract as of the date that Respondent AHP receives such request.
- D. For three (3) years from the date this Order becomes final:
 1. Distribute by first-class mail, return receipt requested, a copy of this Order and the Complaint to:
 - a. each physician, excluding Advocate System Physicians, who begins participating in any Respondent, and who did not previously receive a copy of this Order and the Complaint from a Respondent within thirty (30) days of the time that such participation begins;
 - b. each payor who contracts with a Respondent for the provision of physician services, and who did not previously receive a copy of this Order and the Complaint from a Respondent, within thirty (30) days of the time that such payor enters into such contract;
 - c. each person who becomes an officer, director, manager, or employee, excluding Advocate System Physicians, of any Respondent, and who did not previously receive a copy of this Order and the Complaint from a

Respondent, within thirty (30) days of the time that he or she assumes such position; and

- d. each person who becomes an officer, director, or manager of Advocate Health and Hospitals Corporation, Advocate Health Centers, Inc., or Dreyer Clinic, Inc., and who did not previously receive a copy of this Order and Complaint from a Respondent, within thirty (30) days of the time that he or she assumes such position; and
2. Annually publish in any official report or newsletter sent to all physicians who participate in any Respondent, excluding Advocate System Physicians, a copy of this Order and the Complaint with such prominence as is given to regularly featured articles.
- E. Notify the Commission at least thirty (30) days prior to any proposed: (1) dissolution of any Respondent; (2) acquisition, merger, or consolidation of any Respondent; or (3) other change in any Respondent that may affect compliance obligations arising out of this Order, including but not limited to assignment, the creation or dissolution of subsidiaries, or any other change in any Respondent.

VI.

IT IS FURTHER ORDERED that Respondent AHP shall file verified written reports within sixty (60) days from the date this Order becomes final, annually thereafter for three (3) years on the anniversary of the date this Order becomes final, and at such other times as the Commission may by written notice require. Each report shall include, among other information that may be necessary:

- A. the name, address, and telephone number of each payor with which each Respondent has had any contact during the one (1) year period preceding the date for filing such report;
- B. the identity of each payor sent a copy of the letter attached as Appendix 1, the response of each payor to that letter, and the status of each contract to be terminated pursuant to that letter;
- C. copies of the delivery confirmations or electronic mail with return confirmations required by Paragraph V.A.1., and copies of the signed return receipts required by Paragraphs V.A.2., V.B.; and
- D. a detailed description of the manner and form in which each Respondent has complied and is complying with this Order. Such report is to include, for the calendar year prior to that in which the report is filed, among other required information that may be required, data and documents described at Appendix 3 of this Order.

VII.

IT IS FURTHER ORDERED that, if Respondent AHP fails to comply with all or any portion of Paragraph V. or Paragraph VI. of this Order, within sixty (60) days of the time set forth in such paragraph, then each Respondent shall, within thirty (30) days thereafter, comply

with each portion of Paragraph V. and Paragraph VI. of this Order with which Respondent AHP did not comply, with regard to that Respondent.

VIII.

IT IS FURTHER ORDERED that, for three (3) years from the date this Order becomes final, each Respondent shall notify the Commission of any change in its respective principal address within twenty (20) days of such change in address.

IX.

IT IS FURTHER ORDERED that, for the purpose of determining or securing compliance with this Order, including but not limited to the implementation of the Program:

- A. Respondents shall permit any duly authorized representative of the Commission access, during office hours and in the presence of counsel, to all facilities and access to inspect and copy all books, ledgers, accounts, correspondence, memoranda, calendars, and other records and documents in the possession, or under the control, of Respondents relating to any matter contained in this Order;
- B. Upon five (5) days' notice, and in the presence of counsel, and without restraint or interference from it, to interview officers, directors, or employees of Respondents.

X.

IT IS FURTHER ORDERED that this Order shall terminate twenty (20) years from the date it becomes final.

By the Commission.

Donald S. Clark
Secretary

SEAL
ISSUED:

Appendix 1

[letterhead of AHP]

[name of payor's CEO]
[address]

Dear _____:

Enclosed is a copy of a complaint and a consent order ("Order") issued by the Federal Trade Commission against Advocate Health Partners ("AHP") and others.

Pursuant to Paragraph V.B. of the Order, AHP must allow you to terminate, upon your written request, without any penalty or charge, any contracts with AHP that are in effect as of the date you receive this letter.

If you do not make a written request to terminate the contract, Paragraph V.B. further provides that the contract will terminate on the earlier of the contract's termination date, renewal date (including any automatic renewal date), or anniversary date, which is [date].

You may, however, ask AHP to extend the contract beyond [date], the termination, renewal, or anniversary date, to any date no later than [date], one (1) year after the date the Order becomes final.

If you choose to extend the term of the contract, you may later terminate the contract at any time.

Any request either to terminate or to extend the contract should be made in writing, and sent to me at the following address: [address].

Sincerely,

[AHP to fill in information in brackets]

Appendix 2

UniCare Health Plans

CIGNA HealthCare

Aetna Health Plans

HFN, Inc.

Great-West Healthcare

Blue Cross Blue Shield of Illinois

Health Care Services Corporation d/b/a Blue Cross Blue Shield of Illinois

Humana Health Plans

Advocate Associates

Appendix 3

Document and Data Request

1. In mutually agreeable electronic format:
 - a. for each physician, each medical group practice, and any other aggregation of physicians participating in the Program for which data relevant to performance in the Program is collected, data sufficient to determine such performance for each measurement of performance analyzed by AHP pursuant to the Program. Such measurements of performance may include, but are not limited to any reports or report cards that compare physician performance against benchmarks or guidelines/protocols. Production of the AHP Clinical Integration Program Database will satisfy this requirement, provided that such database is in substantially the same format and contains substantially the same fields of data as the AHP Clinical Integration Program Database provided to Commission staff by letter dated June 30, 2006.
 - b. for each physician participating in the Program, his or her (i) medical group practice name; (ii) practice location; (iii) specialty; (iv) AHP's identification number used to track or report performance under the Program; and (v) affiliation with a physician-hospital organization or any other group whose performance is analyzed under the Program. Production of the AHP Provider Relations Database will satisfy this requirement, provided that such database is in substantially the same format and contains substantially the same fields of data as the AHP Provider Relations Database provided to Commission staff by letter dated June 30, 2006.
 - c. with regard to the incentive funds under the Program: (i) data sufficient to determine the amounts to be allocated, paid, and withheld for (a) each physician and (b) each group of physicians whose performance is analyzed under the Program on a group or aggregated basis; and (ii) documents, data, or a written explanation sufficient to determine the method of and formulas used in calculating such amounts and the numerical inputs for each physician or group of physicians. Production of the AHP Annual Clinical Integration Incentive Distribution Report will satisfy this requirement, provided that such report is in substantially the same format and contains substantially the same fields of data as the AHP Annual Clinical Integration Incentive Distribution Report provided to Commission staff by letter dated June 30, 2006.
2. All documents in the nature of strategic and business plans and budgets which relate to the Program.
3. Documents sufficient to identify all changes to the Program.
4. All analyses of the Program or of physician performance under the Program that are published or provided to: (i) payors; and (b) Respondents' Boards of Directors.

5. For those measurements of performance analyzed by AHP under the Program, any data or documents created or maintained in the ordinary course of business that compare the performance of physicians participating in the Program and who have medical staff privileges at an Advocate Hospital with the performance of all other physicians with medical staff privileges at the same Advocate Hospital.
6. For each measurement of performance analyzed by AHP under the Program, any data or documents created or maintained in the ordinary course of business that compare the performance of physicians under the Program with the performance of those physicians under any capitated contracts.
7. Data reflecting the performance of physicians under clinical quality initiatives conducted by AHP under its agreement with HMO Illinois.