



FRESHFIELDS BRUCKHAUS DERINGER LLP

By Hand

Mr. Donald S. Clark  
Secretary  
Federal Trade Commission  
Room H-159  
600 Pennsylvania Ave., NW  
Washington, DC 20580

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April 6, 2004

**Re: *In the Matter of Piedmont Health Alliance, Inc., et al., FTC Docket No. 9314***

Dear Mr. Clark:

Enclosed please find an Errata Sheet to Respondent Piedmont Health Alliance, Inc.'s First Request for Admissions to Complaint Counsel.

Should you have any questions, please feel free to contact me at (202) 777-4521, or MJ Moltenbrey at (202) 777-4560.

Very truly yours,

Andrea M. Agathoklis

The Freshfields Bruckhaus Deringer LLP partners include members of the Bars of the State of New York and the District of Columbia, Solicitors of the Supreme Court of England and Wales and Rechtsanwälte of Germany

Amsterdam Bangkok Barcelona Beijing Berlin Bratislava Brussels Budapest Cologne Düsseldorf Frankfurt am Main  
Hamburg Hanoi Ho Chi Minh City Hong Kong London Madrid Milan Moscow Munich New York Paris Rome  
Shanghai Singapore Tokyo Vienna Washington



**cc:** Hon. D. Michael Chappell  
*Administrative Law Judge*  
*Federal Trade Commission*

Jeffrey W. Brennan, Esq.  
Markus H. Meier, Esq.  
David M. Narrow, Esq.  
*Complaint Counsel*  
*Federal Trade Commission*

**Enclosures**

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

**In the Matter of**

**PIEDMONT HEALTH ALLIANCE, INC.,  
a corporation,**

**and**

**PETER H. BRADSHAW, M.D.,  
S. ANDREWS DEEKENS, M.D.,  
DANIEL C. DILLON, M.D.,  
SANFORD D. GUTTLER, M.D.,  
DAVID L. HARVEY, M.D.,  
JOHN W. KESSEL, M.D.,  
A. GREGORY ROSENFELD, M.D.,  
JAMES R. THOMPSON, M.D.,  
ROBERT A. YAPUNDICH, M.D.,  
and WILLIAM LEE YOUNG III, M.D.,  
individually**

**Docket No. 9314**

**ERRATA SHEET TO  
RESPONDENT PIEDMONT HEALTH ALLIANCE, INC.'S FIRST REQUEST FOR  
ADMISSIONS TO COMPLAINT COUNSEL**

Counsel for Respondents Piedmont Health Alliance, Inc., et. al. hereby file an errata sheet to the Respondent Piedmont Health Alliance, Inc.'s First Request for Admissions to Complaint Counsel. In the version filed on April 2, 2004, Respondents' counsel inadvertently failed to insert the number "29" in Request for Admission Number 8. In its entirety, Request 8 will read:

**"Request 8:**

Admit that under PHA's Modified Messenger Model, the information that PHA provided to its physician members referred to in paragraph 29 of the Complaint reflected PHA's lowest priced fee schedules."

Respondents counsel hereby submits a revised version thus correcting the error.

Date: April 6, 2004

By:

Paul L. Yde

Mary Jean Moltenbrey

Andrea M. Agathoklis

**FRESHFIELDS BRUCKHAUS DERINGER LLP**

701 Pennsylvania Ave., NW, Suite 600

Washington, DC 20004-2692

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**ATTORNEYS FOR RESPONDENT PIEDMONT  
HEALTH ALLIANCE, INC., et. al.**

**CERTIFICATE OF SERVICE**

I, Andrea M. Agathoklis, hereby certify that on April 6, 2004:

I caused two copies of Respondents' Errata Sheet to Respondent Piedmont Health Alliance, Inc.'s First Request for Admissions to Complaint Counsel, including attachments, to be served by hand delivery upon the following person:

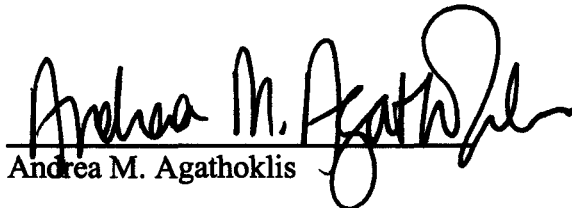
Hon. D. Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
Room H-104  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

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Federal Trade Commission  
Room H-159  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

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Jeffrey Brennan, Esq  
Markus H. Meier, Esq.  
David Narrow, Esq.  
Complaint Counsel  
Federal Trade Commission  
601 New Jersey Ave., N.W.  
Washington, D.C. 20001

  
Andrea M. Agathoklis

**RESPONDENT PIEDMONT HEALTH ALLIANCE, INC.'S FIRST REQUEST FOR  
ADMISSIONS TO COMPLAINT COUNSEL**

DOCUMENT CONTAINING  
MINOR REVISION and CORRECTION IN REQUEST NUMBER 8

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

**In the Matter of**

**PIEDMONT HEALTH ALLIANCE, INC.,  
a corporation,**

**and**

**PETER H. BRADSHAW, M.D.,  
S. ANDREWS DEEKENS, M.D.,  
DANIEL C. DILLON, M.D.,  
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JAMES R. THOMPSON, M.D.,  
ROBERT A. YAPUNDICH, M.D.,  
and WILLIAM LEE YOUNG III, M.D.,  
individually**

**Docket No. 9314**

**RESPONDENT PIEDMONT HEALTH ALLIANCE, INC.'S  
FIRST REQUESTS FOR ADMISSIONS TO COMPLAINT COUNSEL**

Pursuant to FTC Rules of Practice 3.32, Respondent Piedmont Health Alliance, Inc., (“PHA”) requests that Complaint Counsel respond in writing to the following requests for admissions within 10 days of the service of these requests.

## INSTRUCTIONS

1. Complaint Counsel is instructed to provide a sworn written answer or objection to each Request for Admission (“RFA”) below. If an objection is made, the reasons therefore shall be stated. The answer shall specifically admit or deny the matter or set forth in detail the reasons why Complaint Counsel cannot truthfully admit or deny the matter. An answer shall fairly meet the substance of the requested admission, and when good faith requires that Complaint Counsel qualify its answer or deny only a part of the matter on which an admission is requested, Complaint Counsel shall admit so much of the RFA as is true and qualify or deny the remainder.
2. Complaint Counsel may not give lack of information or knowledge as a reason for failure to admit or deny unless Complaint Counsel states that it has made reasonable inquiry and that the information known to or readily obtainable by Complaint Counsel is insufficient to enable it to admit or deny.
3. If Complaint Counsel considers that a matter of which an admission has been requested presents a genuine issue for trial, Complaint Counsel may not, on that ground alone, object to the request, Complaint Counsel may deny the matter or set forth reasons why Complaint Counsel cannot admit or deny it.
4. Any matters not responded to within 20 days of service of this request will be deemed admitted.
5. Whenever a RFA is stated in the conjunctive, it shall also be taken in the disjunctive, and vice versa.



6. Whenever a RFA is stated in the singular, it shall also be taken in the plural, and vice versa.
7. This is a continuing request for admissions. If after making your initial production you obtain or become aware of any further information responsive to this request, you are required to provide supplemental responses.

### **DEFINITIONS**

1. The term “Complaint Counsel,” “FTC” or “you” means the Federal Trade Commission, its staff, attorneys, economists, paralegals, employees and other agents.
2. The term “Respondents” means Piedmont Health Alliance, Inc., Peter H. Bradshaw, M.D., S. Andrews Deekens, M.D., Daniel C. Dillon, M.D., Sanford D. Guttler, M.D., David L. Harvey, M.D., John W. Kessel, M.D., A. Gregory Rosenfeld, M.D., James R. Thompson, M.D., Robert A. Yapundich, M.D., and/or William Lee Young, III, M.D.
3. The term “Piedmont Health Alliance” or “PHA” means Piedmont Health Alliance, Inc., its current and former directors, officers, employees, agents, representatives, predecessors, affiliates, partnerships, and joint ventures, as well as its constituent bodies, divisions, committees, and councils.
4. The term “payor” means any person who purchases, reimburses for, or otherwise pays for health care services for itself or for any other person or that administers such purchase, reimbursement, or payment, including health insurance companies, preferred provider organizations, health maintenance organizations, government health benefit programs,

employers that provide health benefits to employees, unions that provide health benefits to members, and third-party administrators of health benefits claims.

5. The term “Unifour area” means the area comprised of Alexander, Burke, Caldwell and Catawba counties of North Carolina.
6. The term “and/or” shall be construed conjunctively or disjunctively as applicable under the circumstances to provide the broadest possible scope to the request for production.
8. The term “Bonus Plan Contract” means contracts between PHA and self funded employers in which PHA physicians share financial risk, *e.g.*, PHA’s current contract with Hickory Springs.
7. The term “Modified Messenger Model” means the contracting method used by PHA that is described in paragraphs 28-31 of the Complaint.

### **REQUESTS FOR ADMSSIONS**

#### **Request 1:**

Admit that the legality of PHA’s Bonus Plan Contracts is not being challenged in this adjudicative proceeding.

#### **Request 2:**

Admit that under PHA’s Modified Messenger Model, each PHA member only received information about the fees that those individual practices would have received under previous payer contracts.

**Request 3:**

Admit that under PHA's Modified Messenger Model, no PHA member received information about fees that other PHA physician members received under prior payer contracts.

**Request 4:**

Admit that under PHA's Modified Messenger Model, PHA physician members submitted different low and high minimum prices to PHA than were submitted by other physician members.

**Request 5:**

Admit that under PHA's Modified Messenger Model, PHA physician members submitted different high minimum prices to PHA.

**Request 6:**

Admit that under PHA's Modified Messenger Model, PHA physician members within particular specialties, submitted different low minimum prices to PHA.

**Request 7:**

Admit that under PHA's Modified Messenger Model, PHA physician members within particular specialties, submitted different high minimum prices to PHA.

**Request 8:**

Admit that under PHA's Modified Messenger Model, the information that PHA provided to its physician members referred to in paragraph 29 of the Complaint reflected PHA's lowest priced fee schedules.

**Request 9:**

Admit that under PHA's Modified Messenger Model, PHA doctors who submitted minimum prices that exceeded a payer's initial proposal did not know whether the payer would permit them to later accept that proposal.

**Request 10:**

Admit that PHA's computer algorithm which matches payer offers to PHA physician members' minimum prices is an acceptable method of establishing a competitive equilibrium under the joint DOJ/FTC HealthCare Guidelines.

**Request 11:**

Admit that United is satisfied with the current level of PHA member participation in its contract.

**Request 12:**

Admit that Cigna is satisfied with the current level of PHA member participation in its contract.

**Request 13:**

Admit that the information referenced in paragraph 29 of the Complaint that PHA provided to its physician members included PHA's lowest priced contracts.

Date: April 6, 2004

By: Andrea M. Agathoklis  
Paul L. Yde

Mary Jean Moltenbrey

Andrea M. Agathoklis

**FRESHFIELDS BRUCKHAUS DERINGER LLP**

701 Pennsylvania Ave., NW, Suite 600

Washington, DC 20004-2692

Email: paul.yde@freshfields.com

mj.moltenbrey@freshfields.com

andrea.agathoklis@freshfields.com

Tel: (202) 777-4500

Fax: (202) 777-4555

ATTORNEYS FOR RESPONDENT PIEDMONT  
HEALTH ALLIANCE, INC., et. al.

**RESPONDENT PIEDMONT HEALTH ALLIANCE, INC.'S FIRST REQUEST FOR  
ADMISSIONS TO COMPLAINT COUNSEL**

ORIGINAL AS FILED

UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION

**RECEIPT COPY**

In the Matter of

**PIEDMONT HEALTH ALLIANCE, INC.,  
a corporation,**

and

**PETER H. BRADSHAW, M.D.,  
S. ANDREWS DEEKENS, M.D.,  
DANIEL C. DILLON, M.D.,  
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ROBERT A. YAPUNDICH, M.D.,  
and WILLIAM LEE YOUNG III, M.D.,  
individually**

Docket No. 9314

FEDERAL TRADE COMMISSION  
04 APR -2 PM 4:58  
DOCUMENT PROCESSING

**RESPONDENT PIEDMONT HEALTH ALLIANCE, INC.'S  
FIRST REQUESTS FOR ADMISSIONS TO COMPLAINT COUNSEL**

Pursuant to FTC Rules of Practice 3.32, Respondent Piedmont Health Alliance, Inc., ("PHA") requests that Complaint Counsel respond in writing to the following requests for admissions within 10 days of the service of these requests.



## **INSTRUCTIONS**

1. **Complaint Counsel is instructed to provide a sworn written answer or objection to each Request for Admission (“RFA”) below. If an objection is made, the reasons therefore shall be stated. The answer shall specifically admit or deny the matter or set forth in detail the reasons why Complaint Counsel cannot truthfully admit or deny the matter. An answer shall fairly meet the substance of the requested admission, and when good faith requires that Complaint Counsel qualify its answer or deny only a part of the matter on which an admission is requested, Complaint Counsel shall admit so much of the RFA as is true and qualify or deny the remainder.**
  
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employers that provide health benefits to employees, unions that provide health benefits to members, and third-party administrators of health benefits claims.

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8. The term "Bonus Plan Contract" means contracts between PHA and self funded employers in which PHA physicians share financial risk, e.g., PHA's current contract with Hickory Springs.
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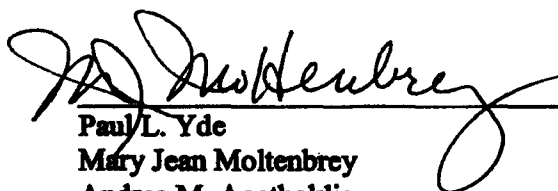
**Request 12:**

Admit that Cigna is satisfied with the current level of PHA member participation in its contract.

**Request 13:**

Admit that the information referenced in paragraph 29 of the Complaint that PHA provided to its physician members included PHA's lowest priced contracts.

Date: April 2, 2004



Paul L. Yde

Mary Jean Moltenbrey

Andrea M. Agathoklis

**FRESHFIELDS BRUCKHAUS DERINGER LLP**

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mj.moltenbrey@freshfields.com

andrea.agathoklis@freshfields.com

Tel: (202) 777-4500

Fax: (202) 777-4501

**ATTORNEYS FOR RESPONDENT PIEDMONT  
HEALTH ALLIANCE, INC., et. al.**

**CERTIFICATE OF SERVICE**

I, Andrea M. Agathoklis, hereby certify that on April 2, 2004:

I caused two copies of Respondents' Request for Admissions, to be served by hand delivery upon the following person:

Hon. D. Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
Room H-104  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

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Andrea M. Agathoklis



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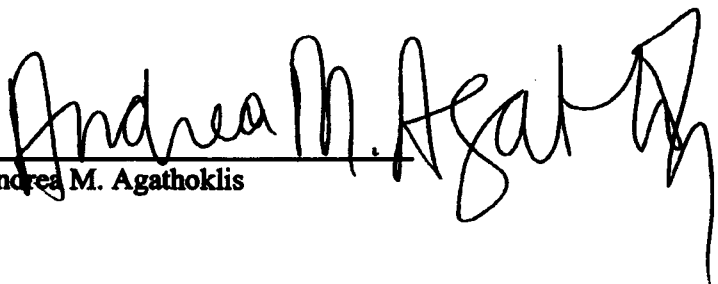
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\_\_\_\_\_  
Andrea M. Agathoklis