

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 78-554-ORL-
)	CIV-Y
HALIFAX HOSPITAL MEDICAL CENTER;)	Filed: 11/27/78
VOLUSIA COUNTY MEDICAL SOCIETY,)	
INC.)	Equitable Relief
)	Sought
Defendants.)	

COMPLAINT

The United States of America, plaintiff, by its attorneys acting under the direction of the Attorney General of the United States, brings this civil action to obtain equitable relief and complains and alleges as follows:

I

JURISDICTION AND VENUE

1. This complaint is filed and this action is instituted under Section 4 of the Sherman Act (15 U.S.C. §4), in order to prevent and restrain the continuing violation by the defendants, as hereinafter alleged, of Section 1 of said Act (15 U.S.C. §1).

2. Each defendant maintains its principal office, transacts business, and is found within the Middle District of Florida.

II

THE DEFENDANTS

3. The Halifax Hospital Medical Center (hereinafter "the Center") is made a defendant herein. It is a 600-bed medical facility located at 303 Clyde Morris Boulevard, Daytona Beach Florida, and is the largest medical facility in Volusia County. The Center was created and incorporated by the Florida legislature in 1925 (1925 Fla. Laws, Ch. 11272). The governing body of the Center consists of a

five-member Board of Commissioners (hereinafter "the Board") appointed by the Governor of Florida. The Board has the powers of a body corporate, including the power to sue and be sued under the name of the Center [1925 Fla. Laws, Ch. 11272, §4715, as amended, Ch. 77-850 (1977)]. The Board also has the responsibility of making appointments to the medical staff.

4. The Volusia County Medical Society, a voluntary non-profit corporation (hereinafter "the Society") is made a defendant herein. The Society maintains its office at the Center and its members sit on various committees of the Center. The Society has approximately 200 members and most physicians in Volusia County belong to the Society. The purposes of the Society, as set forth in its charter, include the cultivation and advancement of medical sciences, the promotion of public health, the enactment of just medical laws, the promotion of friendly intercourse among physicians and the guarding and fostering of their material interests. The Society has the power to take disciplinary action against its members and is under a legal obligation to report any such action to the Florida Board of Medical Examiners (Fla. Stat. § 458.1201), which can suspend or revoke a physician's license.

III

CO-CONSPIRATORS

5. Various persons, not named herein as defendants, have participated as co-conspirators in the offense herein-after alleged, and have performed acts and made statements in furtherance thereof.

IV

TRADE AND COMMERCE

6. Health care services in this country are delivered predominantly through the fee-for-service system. Under

this system, providers of health care, such as physicians, hospitals, and laboratories, are reimbursed separately and according to the nature and number of services provided. Traditionally, physicians have generally favored this system of reimbursement to alternative methods of health care delivery.

7. Florida Health Care Plan, Inc. (hereinafter "the Plan") is a non-profit private Florida corporation located at 350 Clyde Morris Boulevard, Daytona Beach, Florida. The Plan provides comprehensive health care services on a prepaid basis to approximately 9,000 subscribers who contract with the Plan as members of a group. The Plan is a health maintenance organization which has received substantial sums of money from the federal government in the form of grants and loan guarantees under the the provisions of 42 U.S.C. §300e-§300e-15. Subscribers contract with a health maintenance organization such as the Plan to receive a range of health care services for a predetermined, prepaid premium. These services are provided for a fixed payment without regard to the frequency, extent, or kind of services provided. Physicians and other providers employed by a health maintenance organization such as the Plan are generally reimbursed on a salaried basis and thus have a financial incentive to avoid unnecessary services and to encourage preventative services for their subscribers.

8. The Center is the largest hospital in Volusia County, Florida and has the broadest range of services of any health care facility in the area. It is a virtual necessity that the Plan's physicians be members of the Center's medical staff in order that its subscribers have access to the Center's facilities. In order to admit a patient to the Center, a physician must be appointed to its medical staff. Under the Center's medical staff by-

laws, applications for appointment are considered by the Credentials Committee. Its recommendation is forwarded to the Executive Committee of the Medical Staff which in turn recommends acceptance or denial to the Board of Commissioners.

9. There are professional and social benefits that result from membership in local medical societies. Membership is one measure of a physician's standing and reputation among his or her peers and in the community. Specialization in medical practice has increased the incidence of referrals among physicians, and membership in a local medical society is a source of such referrals and of other forms of essential professional cooperation. A physician who takes action or adopts a position which is contrary to the official position of the local medical society risks economic reprisal.

10. The Plan received funds in the form of construction loans from an out-of-state source, and purchases substantial amounts of goods and services from out-of-state firms. The Plan has undertaken efforts to attract physicians from outside the state of Florida. The activities of the Plan and the unlawful activities hereinafter alleged are in and affect interstate commerce.

V

VIOLATION ALLEGED

11. Beginning in or about 1971, defendants and co-conspirators have been engaged in a continuing combination and conspiracy in unreasonable restraint of the aforesaid trade and commerce in violation of Section 1 of the Sherman Act, 15 U.S.C. §1.

12. The combination and conspiracy consists of a continuing agreement, understanding, and concert of action among the defendants and their co-conspirators to impair

the ability of the Plan to commence and maintain operations and to compete in the delivery of health care services in the Volusia County area.

13. In furtherance of the aforesaid combination and conspiracy, the defendants and co-conspirators have done those things which they have combined and conspired to do, by means of the following acts in furtherance of the conspiracy, among others:

- (a) publicly advocating the lack of need for the Plan while simultaneously formulating a proposal for their own health maintenance organization;
- (b) establishing the Professional Procurement Committee at the Center which discouraged non-local physicians contemplating affiliation with the Plan from locating in the Volusia County area;
- (c) through the Credentials Committee, excluding physicians contemplating affiliation with the Plan from staff appointments at the Center;
- (d) adopting, publishing and distributing a resolution opposing the Plan;
- (e) undertaking the foregoing actions with knowledge of their possible adverse impact on the Plan and with the purpose of hindering the Plan.

VI

EFFECTS

14. The aforesaid combination and conspiracy has had the following effects, among others:

- (a) the formation and development of the Plan has been delayed and obstructed;

- (b) the Plan has been denied the opportunity to compete freely for the provision of health care services in the Volusia County area;
- (c) competition in the provision of health care services in the Volusia County area has been restrained;
- (d) consumers have been deprived of the benefits of free and open competition in the market for health care services in the Volusia County area.

PRAYER

Wherefore, plaintiff prays:

1. That the alleged combination and conspiracy among defendants and their co-conspirators be adjudged and declared to be an unreasonable restraint of trade in violation of Section 1 of the Sherman Act.

2. That defendants, including their officers, directors, agents, employees, successors and assigns and all persons acting or claiming to act in their behalf, be perpetually enjoined from continuing or renewing the combination and conspiracy alleged herein and from entering into any similar agreement or concert of action.

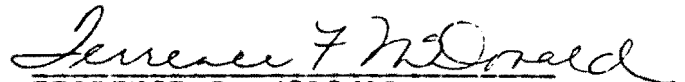
3. That the defendant Center be enjoined from adopting standards or procedures that have the purpose or effect of discouraging physicians affiliated or contemplating affiliation with the Plan from locating in Volusia County.

4. That the defendant Society be ordered to rescind its resolution against the Plan and to publish such rescission to its members and to the public and be enjoined from adopting any resolution or similar statement of policy that has the purpose or effect of discouraging participation in

the Plan.

5. The Court grant such other relief as it deems appropriate.


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