

ORIGINAL

June 16, 2004

Federal Trade Commission
Office of the Secretary
Room H-159
600 Pennsylvania Avenue, NW
Washington, DC 20580



To Whom It May Concern:

My name is Philip Heavner, and I am writing to make comment regarding the recent FTC press release, dated June 7, 2004, and related FTC actions in the matter of the Southeast New Mexico Independent Physician's Association. I want to make it clear that I was president of this organization during the majority of this "investigation", but write now as a concerned citizen and physician.

First, the language used in the press release is unduly negative and inaccurate. It is implied that the current activities of the IPA include the general membership voting on the acceptance of contracts or not, which is wholly untrue. It is possible that the IPA had done such things in the past, but I have been a member since 1999, was a board member from 2002 to 2004, and have served as vice president and president, and at no time during that period has there been such activity, and no single member of the IPA has attended more meetings than I. We use and have used the "messenger model" to communicate with health insurance companies, and will continue to do so within the letter of the law. To imply that there is any current intentional wrong doing is simply incorrect.

Second, I find it hard to believe that after reviewing 12,000 or so documents spanning 7 or 8 years of IPA activity, that the FTC would not have a single question for the board of directors or officers of the IPA. I was certainly never contacted by any representative of the FTC to clarify anything, nor do I know of any other board member who was contacted during the "investigation". How can this be? Is our side of the story so unimportant or is it that no current board member or officer had anything to explain, because we are working well within the law? I am sure there was much direct communication between those entities who filed the complaint and the FTC.

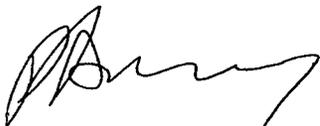
Third, is it not obvious what's going on here in New Mexico and around the nation? Health insurance companies are using the FTC to attempt to disband physician organizations that are effective in maintaining lines of legal communication and messenger models to serve their own purpose... which is to increase profit margins. Under the guise of "keeping down healthcare cost", such companies use the FTC to harass, disband, and discourage physicians from legally streamlining an intentionally burdensome contracting process. An individual physician or small group, which predominate in rural settings, simply cannot afford to spend all of their waking hours sifting through reams of contracts from dozens of potential healthcare companies. We have patients to see, emergencies to attend to, and are patients ourselves. IPAs serve to streamline business practices that are cumbersome for physicians who have more important matters to attend to... like patients. The goal of IPAs, which are predominantly not-for-profit entities, is not to drive up doctor's fees, but rather to pool information to facilitate communication amongst a group of geographically associated physicians. Doesn't that potentially help the healthcare organizations? It does and is welcomed so



long as the companies are able to negotiate the fees that they want. When a messenger model provides information to a healthcare plan that they don't want to hear, the immediate assumption is that the doctors are colluding. Could it possibly be that individual physicians through legal means could simply be asking for what they need to function as a business, without breaking the law? Unfortunately, it is easy for a healthcare organization to file a complaint with the FTC, and difficult for an IPA to defend itself, especially when the entire "investigation" is a document review only. I challenge anyone to find illegal practices consciously perpetrated by the IPA while I was president.

Finally, I must express my disappointment with this process. For example, a large, financially successful company is looking at ways to increase their profit margins. They have to answer to their shareholders, of course. In this scenario, healthcare, it is unlikely that this company is going to have success negotiating the price of prescription drugs or inpatient medical services, whose cost is largely determined by companies even larger and more powerful than the financially successful company in question. So where to go? Well, the physicians do receive a portion of the expenditures, and they are generally inexperienced in the legal matters of contracting and are less likely to have a legal department unless they are in a very large group. In addition, if this company is able to encourage a powerful government agency to investigate how the physicians do business, the physicians don't have the basic organization or financial resources to defend themselves with an expensive, prolonged legal appeal. It would seem a logical choice to act to reduce doctor's fees, and that's exactly what has happened across the U.S. Unfortunately, the FTC has become a free tool for big insurance companies, and ironically it's the physician's tax dollars that help fund the FTC!

I have a suggestion. Perhaps the healthcare organizations could consider decreasing the cost of healthcare by decreasing their profit margins, and passing on the savings in reduced premiums. Are any of the companies that filed a complaint against our IPA currently losing money? No. They are all quite profitable. The cost of healthcare in our community, that which directly affects the consumer and employers, is perceived as the individual insurance premiums, which increase between 15 and 18 percent per year. There is no way that doctors fees are causing that sort of increase, not in our community or anyone else's. So don't mislead the public into believing that doctors are to blame. Try the cost of inpatient services or prescription drugs, or even profit margins of insurance companies. Physician's fees as contributions to the cost of overall healthcare pale in comparison. I am proud of our IPA and the legal manner in which we try to facilitate the practice of medicine in our community. We also work with our county indigent program to try to facilitate healthcare for the uninsured in our community, and provide education on various topics to our membership and their offices. But nobody talks about the non-contracting things that we do....maybe because nobody, including the FTC, bothered to even ask.



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