

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

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

_____)
In the Matter of)
)
PUERTO RICO ASSOCIATION)
OF ENDODONTISTS, CORP.) Docket No. C-4166
)
_____)

DECISION AND ORDER

The Federal Trade Commission (“Commission”), having initiated an investigation of certain acts and practices of the Puerto Rico Association of Endodontists, Corp. (“PRAE”), hereinafter sometimes referred to as “Respondent,” and PRAE having been furnished with a copy of the draft Complaint that Counsel for the Commission proposed to present to the Commission for its consideration and which, if issued, would charge Respondent with violations of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45; and

Respondent, its attorney, and counsel for the Commission having thereafter executed an Agreement Containing Consent Order to Cease and Desist (“Consent Agreement”), containing an admission by Respondent 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 Respondent 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 this matter and having determined that it had reason to believe that Respondent has violated the 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 PRAE is a not-for-profit corporation, organized, existing, and doing business under and by virtue of the laws of the Commonwealth of Puerto Rico, with its principal address located at PMB #92, 400 Kalaf Street, San Juan, Puerto Rico 00918.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Respondent, 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 PRAE” means the Puerto Rico Association of Endodontists, Corp., its officers, directors, members, employees, agents, attorneys, representatives, predecessors, successors, and assigns; the subsidiaries, divisions, groups, and affiliates controlled by it, and the respective officers, directors, employees, agents, attorneys, representatives, predecessors, successors, and assigns of each of its officers, directors, members, employees, agents, attorneys, representatives, successors, and assigns; the subsidiaries, divisions, groups, and affiliates controlled by it, and the respective officers, directors, employees, agents, attorneys, representatives, successors, and assigns of each.
- B. “Participate” in an entity means (1) to be a partner, shareholder, owner, member, or employee of such entity, or (2) to provide services, agree to provide services, or offer to provide services, to a payor through such entity. This definition applies to all tenses and forms of the word “participate,” including, but not limited to, “participating,” “participated,” and “participation.”
- C. “Payor” means any person that pays, or arranges for payment, for all or any part of any endodontist services for itself or for any other person. Payor includes any person that develops, leases, or sells access to networks of endodontists.
- D. “Endodontist” means a person involved in the branch of dentistry concerned with the etiology, prevention, diagnosis, and treatment of diseases and injuries affecting the dental pulp, tooth root, and periapical tissue.
- E. “Person” means both natural persons and artificial persons, including, but not limited to, corporations, unincorporated entities, and governments.
- F. “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.

II.

IT IS FURTHER ORDERED that Respondent PRAE, directly or indirectly, or through any corporate or other device, in connection with the provision of endodontist 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 endodontists with respect to their provision of endodontist services:
 - 1. to negotiate on behalf of any endodontist 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 endodontist 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 through any arrangement other than Respondent PRAE;
- B. Facilitating in any manner the exchange or transfer of information between or among endodontists concerning any endodontist’s willingness to deal with a payor, or the terms or conditions, including any price terms, on which the endodontist 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.

III.

IT IS FURTHER ORDERED that Respondent PRAE 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 return receipt requested or delivery confirmation, or electronic mail, with return confirmation, to each endodontist that is a member of Respondent PRAE;

2. first-class mail, with return receipt requested or delivery confirmation, or electronic mail, with return confirmation, to each present officer, director, manager, and employee of Respondent PRAE; and
 3. first-class mail, return receipt requested, to the chief executive officer of each payor with whom Respondent PRAE has a record of being in contact since January 1, 2001.
- B. For a period of three (3) years after the date this Order becomes final:
1. Distribute a copy of this Order and the Complaint by:
 - a. first-class mail, with return receipt requested or delivery confirmation, or electronic mail, with return confirmation, to each endodontist that joins Respondent PRAE, and that did not previously receive a copy of this Order and the Complaint from Respondent PRAE, within thirty (30) days of the day that such membership begins;
 - b. first-class mail, with return receipt requested or delivery confirmation, or electronic mail, with return confirmation, to each person who becomes an officer, director, manager, or employee of Respondent PRAE, and who did not previously receive a copy of this Order and the Complaint from Respondent PRAE, within thirty (30) days of the day that he or she assumes such responsibility with Respondent PRAE; and
 2. Annually publish a copy of this Order and the Complaint in an official annual report or newsletter sent to all members of Respondent PRAE, with such prominence as is given to regularly featured articles.
- C. File a verified written report within sixty (60) days after the date on which 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 such report shall include:
1. A detailed description of the manner and form in which Respondent PRAE has complied and is complying with this Order;
 2. The name, address, and telephone number of each payor with which Respondent PRAE has had any contact; and
 3. Depending on the method of delivery used, copies of the delivery confirmations, electronic mail confirmations, or signed return receipts required by this Order.

IV.

IT IS FURTHER ORDERED that Respondent PRAE shall notify the Commission at least thirty (30) days prior to any proposed (1) dissolution of Respondent PRAE, (2) acquisition, merger, or consolidation of Respondent PRAE, or (3) other change in Respondent PRAE 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 Respondent PRAE.

V.

IT IS FURTHER ORDERED that Respondent PRAE shall notify the Commission of any change in its principal address within twenty (20) days of such change in address.

VI.

IT IS FURTHER ORDERED that, for the purpose of determining or securing compliance with this Order, Respondent PRAE shall permit any duly authorized representative of the Commission:

- A. Access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda, calendars, and other records and documents in its possession, or under its control, relating to any matter contained in this Order; and
- 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 the Respondent.

VII.

IT IS FURTHER ORDERED that this Order shall terminate on August 24, 2026.

By the Commission.

Donald S. Clark
Secretary

SEAL
ISSUED: August 24, 2006