

ANALYSIS OF AGREEMENT CONTAINING CONSENT ORDER TO AID PUBLIC COMMENT

*In the Matter of Your Therapy Source, LLC; Neeraj Jindal; and Sheri Yarbray
FTC File No. 171-0134*

I. Overview

The Federal Trade Commission (“Commission”) has accepted, subject to final approval, an agreement containing consent order with Your Therapy Source, LLC, (“Your Therapy Source”), the owner of Your Therapy Source, and the former owner of Integrity Home Therapy (collectively “Respondents”). The agreement settles charges that Respondents violated Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, by agreeing to lower rates paid to therapists and inviting other therapist staffing companies to lower rates paid to therapists.

The proposed consent order has been placed on the public record for 30 days to solicit comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the proposed consent order along with the comments received, and decide whether it should withdraw from the consent agreement, modify it, or make final the proposed consent order.

The purpose of this analysis is to facilitate public comment on the proposed consent order. The analysis is not intended to constitute an official interpretation of the proposed consent order or to modify its terms in any way. Further, the proposed consent order has been entered into for settlement purposes only and does not constitute an admission by Respondents that they violated the law or that the facts alleged in the Complaint (other than jurisdictional facts) are true.

II. The Complaint

The proposed complaint charges that (1) Your Therapy Source, (2) Sheri Yarbray, the owner of Your Therapy Source, and (3) Neeraj Jindal, the former owner of Integrity Home Therapy agreed, and invited others to agree, to lower the rates paid to therapists for treating patients of home health agencies in the Dallas/Fort Worth, Texas area.

Your Therapy Source and Integrity Home Therapy are therapist staffing companies that provide therapists, including physical therapists, physical therapist assistants, occupational therapists, occupational therapist assistants, and speech therapists (collectively “therapists”) to treat patients pursuant to contracts with home health agencies. Home health agencies pay therapist staffing companies a negotiated rate referred to as a “bill rate.” Staffing companies generally contract with therapists on a non-exclusive basis and pay them a rate per patient evaluation and per patient visit referred to as a “pay rate.” Therapist staffing companies compete with each other for therapists. Therapists may contract with more than one staffing company and generally choose among them based on pay rate, volume of patient referrals, and location of patients.

The complaint alleges that Respondents exchanged Integrity's and Your Therapy Source's therapist pay rate information with each other and agreed to jointly lower therapist pay rates to the same level. The complaint also alleges that Respondents invited other therapist staffing companies to collude on pay rates. Finally, the complaint alleges that Respondents' conduct was not reasonably related to any efficiency-enhancing justification.

III. The Proposed Consent Order

The proposed consent order is designed to prevent recurrence of the illegal conduct alleged in the complaint. The key provisions make it a violation of the proposed consent order for Respondents to collude with competitors on compensation paid to their employees or independent contractors. The proposed consent order does not name Integrity Home Therapy as a respondent because Mr. Jindal sold Integrity Home Therapy in August 2017 to a new owner who had no involvement with the conduct alleged in the complaint.

Paragraph II.A of the proposed consent order prohibits Respondents from entering into or organizing agreements with any person to lower, fix, maintain, or stabilize the compensation that a Respondent or such person pays, or is willing to pay, in competing with each other for employees and independent contractors, including therapists.

The remaining portions of Paragraph II prohibit conduct that would facilitate a violation of Paragraph II.A, including barring the exchange of information related to compensation (Paragraph II.B) and barring attempts to engage in prohibited conduct or invitations to others to do so (Paragraphs II.C and II.D).

Paragraph III requires Your Therapy Source to send a copy of the complaint and consent order to its officers, partners, directors, and employees, and retain records sufficient to show Your Therapy Source's compliance with this requirement.

Paragraphs IV, V, VI, and VII impose various obligations on Respondents to report or provide access to information to the Commission to facilitate monitoring of compliance with the consent order.

Finally, paragraph VIII provides that the consent order will expire in 20 years.