

These provisions will prevent Heartland from obtaining such physician concentration that would permit it to raise prices for physician services above competitive levels or otherwise thwart the ability of competing managed care plans to enter and compete effectively in St. Joseph.¹⁵

4. Other Substantive Provisions

Sections IV(B), V(B), and VI(A) of the proposed Final Judgment enjoin the disclosure to any physician of any financial or competitively sensitive business information about any competing physician or competitor of defendants. These provisions will ensure that defendants do not exchange information that could lead to price fixing or other anticompetitive harm.

Section VII(B)(3) provides plaintiff access to Heartland's credentialing files to ensure that Heartland does not abuse its credentialing authority by denying privileges to or otherwise disciplining physicians who participate in a competing managed care plan. Similarly, Section VII(B)(1) requires Heartland to abide by its formal written referral policy regarding ancillary services to ensure that Heartland will not abuse its control over inpatient hospital services to reduce or eliminate competition among providers of ancillary services in St. Joseph.

Section VI(E) enjoins Heartland from requiring managed care plans to use other Heartland services such as its utilization review program or managed care plan in order to obtain inpatient hospital services. This Section will permit managed care plans to use their own physician panels, utilization review, and fee schedule, thereby fostering the development of truly competitive health care delivery systems in St. Joseph.

Section VII(B)(2) requires Heartland to file annually with plaintiff a report of the rates, terms, and conditions for inpatient hospital services that Heartland provides any managed care plan or hospice program. This will assist plaintiff in assessing whether Heartland has abused its power in the inpatient hospital market.

practice group providing general internal medicine services in St. Joseph. (See Attachment.)

¹⁵ The proposed Final Judgment permits Heartland to employ or acquire other physician practices where the employment or acquisition would not result in a substantial lessening of competition in the St. Joseph area either because (1) the physician derived only limited revenues from patients in Buchanan County, (2) Heartland actively recruited the physician to the St. Joseph area, or (3) the physician would exit the market but for Heartland's employment or acquisition. (Section VIII (B), (C) and (d).)

Finally, Section XI(C) requires any defendant owning an interest in a QMCP that includes any single physician practice group comprising more than 30% of the physicians in any relevant market to notify plaintiff if the practice group acquires additional physicians. This will ensure that the United States knows of any such acquisition and can evaluate its potential anticompetitive effects.

5. Conclusion

The Department of Justice believes that the proposed Final Judgment contains adequate provisions to prevent further violations of the type upon which the Complaint is based and to remedy the effects of the alleged conspiracy. The proposed Final Judgment's injunctions will restore the benefits of free and open competition in St. Joseph and will provide consumers with a border selection of competitive health care plans.

IV

Alternatives to the Proposed Final Judgment

The alternative to the proposed Final Judgment would be a full trial on the merits of the case. In the view of the Department of Justice, such a trial would involve substantial costs to both the United States and defendants and is not warranted because the proposed Final Judgment provides all of the relief necessary to remedy the violations of the Sherman Act alleged in the Complaint.

V

Remedies Available to Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages suffered, as well as costs and a reasonable attorney's fee. Entry of the proposed Final Judgment will neither impair nor assist in the bringing of such actions. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no *prima facie* effect in any subsequent lawsuits that may be brought against one or more defendants in this matter.

VI

Procedures Available for Modification of the Proposed Final Judgment

As provided by Sections 2 (b) and (d) of the APPA, 15 U.S.C. 16 (b) and (d), any person believing that the proposed Final Judgment should be modified may submit written comments to Gail Kursh,

Chief; Professions & Intellectual Property Section/Health Care Task Force; Department of Justice; Antitrust Division; 600 E Street, N.W.; Room 9300; Washington, D.C. 20530, within the 60-day period provided by the Act. Comments received, and the Government's responses to them, will be filed with the Court and published in the Federal Register. All comments will be given due consideration by the Department of Justice, which remains free, pursuant to Paragraph 2 of the Stipulation, to withdraw its consent to the proposed Final judgment at any time before its entry, if the Department should determine that some modification of the Final Judgment is necessary for the public interest. Moreover, the proposed Final Judgment provides in section XIV that the Court will retain jurisdiction over this action, and that the parties may apply to the Court for such orders as may be necessary or appropriate for the modification, interpretation, or enforcement of the proposed Final Judgment.

VII

Determinative Documents

No materials and documents of the type described in Section 2(b) of the APPA, 15 U.S.C. 16(b), were considered in formulating the proposed Final Judgment. Consequently, none are filed herewith.

Dated: September 13, 1995.

Respectfully submitted,

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John B. Arnett, Sr.,
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DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Census of Fatal Occupational Injuries

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an

opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden is minimized, reporting forms are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed extension of the "Census of Fatal Occupational Injuries."

A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the address section of this notice.

DATES: Written comments must be submitted on or before December 4, 1995.

ADDRESSES: Send comments to Karin G. Kurz, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue N.E., Washington D.C. 20212. For further information contact Ms. Kurz on 202-606-7628 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Background

BLS was delegated responsibility by the Secretary of Labor for implementing Section 24(a) of the Occupational Safety and Health Act of 1970. This section states that "the Secretary shall compile accurate statistics on work injuries and illnesses which shall include all disabling, serious, or significant injuries and illnesses. * * *" Prior to the implementation of the Census of Fatal Occupational Injuries (CFOI), BLS generated estimates of occupational fatalities for private sector employers from a sample survey of about 280,000 establishments. Studies showed that occupational fatalities were underreported in those estimates as well as those compiled by regulatory, vital statistics, and workers' compensation systems. Estimates varied widely between 3,000 and 10,000 annually. In addition, information needed to develop prevention strategies was often missing from these earlier systems.

In the late 1980s, the National Academy of Sciences study, *Counting Injuries and Illnesses in the Workplace*, and the report, *Keystone National Policy Dialogue on Work-Related Illness and Injury Recordkeeping*, emphasized the need for BLS to compile a complete roster of work-related fatalities because of concern over the accuracy of using a sample survey to estimate the incidence

of occupational fatalities. These studies also recommended the use of all available data sources to compile detailed information for fatality prevention efforts. BLS tested the feasibility of collecting fatality data in this manner in 1989 and 1990. The resulting CFOI was implemented in 32 States in 1991. National data covering all 50 States and the District of Columbia were compiled and published for 1992-1994, approximately eight months after each calendar year.

The CFOI compiles comprehensive, accurate, and timely information on work-injury fatalities needed to develop effective prevention strategies. The system collects information concerning the incident, demographic information on the deceased, and characteristics of the employer.

Data are used to:

- Develop employee safety training programs;
- Develop and assess the effectiveness of safety standards;
- Conduct research for developing prevention strategies; and
- Compare fatalities between States.

In addition, States use the data to publish State reports, to identify State-specific hazards, to allocate resources for promoting safety in the workplace, and to evaluate the quality of work life in the States.

II. Current Actions

In 1994, more than 6,500 workers lost their lives as a result of injuries received on the job. This official, systematic, verifiable count mutes controversy over the various counts from different sources. The CFOI count has been adopted by the National Safety Council and other organizations as the sole source of a comprehensive count of fatal work injuries for the United States. If this information were not collected, the confusion over the number of, and patterns in, fatal occupational injuries would continue, thus hampering prevention efforts. By providing timely occupational fatality data, the CFOI program provides safety and health managers the information necessary to respond to emerging workplace hazards.

In 1994, BLS Washington staff responded to over 2,000 requests for CFOI data from various organizations. (This figure excludes requests received by the States for State-specific data.) The CFOI research file, made available to safety and health groups, is being used by 30 organizations to conduct studies on specific topics such as protective equipment use, forklift injuries, tractor-trailer tipovers, powerline electrocutions, homicides,

construction industry falls, highway construction fatalities, and logging and forestry fatalities. (A current list of research articles and reports that include CFOI data can be found in BLS Report 891, dated June 1995, Appendix F. Copies of this report are available upon request.)

Type of Review: Extension.

Agency: Bureau of Labor Statistics.

Title: Census of Fatal Occupational Injuries.

OMB Number: 1220-0133.

Frequency: On Occasion.

Affected Public: Individuals or households, Business or other for-profit, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.

Number of Respondents: 2,665.

Estimated Time Per Response: 11 Minutes.

Total Burden Hours: 5,000 Hours.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the ICR; they also will become a matter of public record.

Signed at Washington, D.C., this 26th day of September, 1995.

Peter T. Spolarich,

*Chief, Division of Management Systems,
Bureau of Labor Statistics.*

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NATIONAL BANKRUPTCY REVIEW COMMISSION

Meeting

AGENCY: National Bankruptcy Review Commission.

ACTION: Notice of public meeting.

TIME AND DATES: October 20, 1995; 10 a.m. to 6 p.m.

PLACE: Thurgood Marshall Building, Federal Judicial Center, Education Center/Auditorium, One Columbus Circle, N.E., Washington, D.C. 20002. The public should enter through the South Lobby entrance of the Thurgood Marshall Building.

STATUS: The meeting will be open to the public but a part will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public: This will be the first meeting for the NBRC and will be the organizational meeting for the Commission. The matters to be discussed will cover organizational matters for the NBRC and will focus on a discussion of an initial work plan for the life of the NBRC in accordance with