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.<sup>15</sup>

## 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.)

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.

#### ΙV

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.

#### 1

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,

Edward D. Eliasberg, Jr., John B. Arnett, Sr.,

Dando B. Cellini,

Mark J. Botti,

Gregory S. Asciolla,

Attorneys, Antitrust Division, U.S. Dept. of Justice, 600 E Street, N.W., Room 9420, Washington, D.C. 20530, (202) 307–0808. [FR Doc. 95–24365 Filed 10–2–95; 8:45 am]

BILLING CODE 4410-01-M

## **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

<sup>&</sup>lt;sup>15</sup> 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).)