does not prohibit them from facilitating an agreement solely between physicians who are part of the same medical group practice. The proposed order defines such a practice as a bona fide, integrated firm in which physicians practice medicine together as partners, shareholders, owners, members, or employees, or in which only one physician practices medicine.

Paragraph III prohibits Ms. Brauchler, for a period of three years, from negotiating with any payor on behalf of any current or past member of AAPCP, and from advising any current or past member of AAPCP to accept or reject any term, condition, or requirement of dealing with any payor.

Ms. Brauchler is not prohibited from performing legitimate ''messenger'' services, including with respect to AAPCP. As noted above, a properly constituted messenger can efficiently facilitate the establishment of physician-payor contracts and avoid fostering unlawful agreements among the participating physicians. As set forth in the proposed complaint, however, while Ms. Brauchler purported to operate as a legitimate messenger, in practice she fostered anticompetitive physician agreements by negotiating directly with payors for higher fees on behalf of AAPCP's entire membership, and by advising AAPCP's members collectively to reject various payor offers and to engage in concerted refusals to deal. For this reason, Paragraph III is a necessary and appropriate supplement to Paragraph II's provisions. Under the proposed order, Ms. Brauchler may serve as AAPCP's messenger, but, pursuant to Paragraph III, may not negotiate for or advise any AAPCP member with respect to payor contracts.

Paragraph IV.C requires AAPCP to terminate, without penalty at any payor's request, current contracts with payors with respect to providing physician services. This provision is intended to eliminate the effects of Respondents' anticompetitive concerted actions. The remaining provisions of Paragraph IV and Paragraphs V through VIII of the proposed order impose obligations on Respondents with respect to distributing the proposed complaint and order to AAPCP's members and to other specified persons, and reporting information to the Commission.

The proposed order will expire in 20 years.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 02–12954 Filed 5–22–02; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 011 0173]

Physician Integrated Services of Denver, Inc., et al.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before June 12, 2002.

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments filed in electronic form should be directed to: *consentagreement@ftc.gov,* as prescribed below.

FOR FURTHER INFORMATION CONTACT: Jeffrey Brennan, Bureau of Competition, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–3688.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission's rules of practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for May 13, 2002), on the World Wide Web, at ''*http://www.ftc.gov/os/2002/05/index.htm.*'' A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to email messages directed to the following email box: *consentagreement@ftc.gov.* Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice, 16 CFR 4.9(b)(6)(ii)).

Analysis of Agreement Containing Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a proposed consent order with Physician Integrated Services of Denver, Inc. (''PISD''), Michael J. Guese, M.D., and Marcia A. Brauchler (''Respondents''). The agreement settles charges that Respondents violated section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, by facilitating and implementing agreements among PISD's members to fix prices and other terms of dealing with health insurance firms and other third-party payors (hereinafter, ''payors''), and to refuse to deal with payors except on collectively determined terms. The proposed consent order has been placed on the public record for 30 days to receive comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make the proposed order final.

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

The Complaint

The allegations in the Commission's proposed complaint are summarized below.

PISD has approximately 41 primary care physicians in its membership. Dr.

Guese is PISD's president and sole director. Ms. Branchler is a consultant and advisor to PISD. Except to the extent that competition has been restrained in the manner set forth in the proposed complaint, PISD's members compete with each other as internists, pediatricians, family physicians, or general practitioners, in offices located in the southern part of the Denver, Colorado, metropolitan area (''South Denver area''). To be competitively marketable to employers and other purchasers in the South Denver area, a payor's health insurance plan must include in its network of participating physicians a large number of primary care physicians who practice in the South Denver area.

The physicians formed PISD as a vehicle collectively to negotiate contracts with payors, and thereby to achieve contracts containing higher fees and other, more advantageous terms than the individual physicians could obtain unilaterally. PISD members authorized PISD to negotiate for this purpose. They also authorize PISD to negotiate ''non-risk'' contracts, which are contracts that do not involve sharing among physicians of financial risk, through arrangements such as capitation or fee withholds. Further, before the entire organization can accept a proposed mayor contract, a majority of PISD's members must approve it.

Sometimes a network of competing physicians uses an agent to convey to payors information obtained individually from the physicians about fees or other significant contract terms that they are willing to accept. The agent may also convey to the physicians all payor contract offers, which the physicians then unilaterally decide whether to accept or reject. Such a ''messenger model'' arrangement, which is described in the 1996 Statements of Antitrust Enforcement Policy in Health Care jointly issued by the Federal Trade Commission and U.S. Department of Justice (see *http://www.ftc.gov/reports/hlth3s.htm*.), can failitate and minimize the costs involved in contracting between physicians and payors, without fostering an agreement amont competing physicians on fees or fee-related terms.

PISD purported to operate as a messenger, but, in practice, it did not do so. Rather, from 1999 through 2001, Dr. Guese and Ms. Brauchler negotiated fees and other competitively significant terms collectively on behalf of PISD's members. Only if a payor offered a contract containing sufficiently high fees did Dr. Guese and Ms. Brauchler recommend to the members that they accept the contract. Dr. Guese and Ms. Brauchler refused to convey to PISD's members contract offers containing price and other terms that Dr. Guese and Ms. Brauchler deemed to be deficient. Instead, they demanded, and received, contract terms that were more economically advantageous, from the physicians' perspective, than the physicians themselves could have obtained by negotiating individually rather than collectively.

PISD functioned as its members' *de facto* exclusive representative. Respondents told payors that PISD had the authority to negotiate and sign contracts on behalf of all of its members, and members themselves sent letters to payors, asserting that they would deal with payors only through PISD, Dr. Guese, or Ms. Brauchler, and not unilaterally. Respondents also successfully applied coercive tactics. For example, they advised PISD members to terminate, or threaten to terminate, their pre-existing, individual contracts with payors. Many PISD members complied, to pressure payors into offering a new contract to PISD that paid fees at or above the level that the physicians, through PISD, collectively demanded. The terminations and threats of termination left payors in the untenable position of having to pay higher fees to PISD members, or being denied such members' inclusion in the payors' respective provider networks. As a consequence of this conduct, PISD or its members contracted with various payors for fees that were higher than the fees such payors had agreed to pay other primary care physicians in the area.

Respondents' joint negotiation of fees and other competitively significant terms has not been reasonably related to any efficiency-enhancing integration. PISD refused to consider any form of financial risk-sharing, and its members have not clinically integrated their practices to create sufficiently substantial potential efficiencies. Respondents' actions have restrained price and other forms of competition among the members, caused fees for physician services to rise, and harmed consumers, including health plans, employers, and individual patients.

The Proposed Consent Order

The proposed order is designed to prevent recurrence of these illegal concerted actions, while allowing Respondents to engage in legitimate conduct that does not impair competition. The proposed order's core prohibitions are contained in Paragraphs II and III.

Paragraph II is intended to prevent the Respondents from participating in, or creating, future unlawful physician agreements.

Paragraph II.A prohibits PISD, Dr. Guese, and Ms. Brauchler from entering into or facilitating any agreement between or among any physicians: (1) To negotiate with payors on any physician's behalf; (2) to deal, not to deal, or threaten not to deal with payors; (3) on what terms to deal with any payor; or (4) not to deal individually with any payor, or not to deal with any payor through an arrangement other than PISD.

Paragraph II.B prohibits these Respondents from facilitating exchanges of information between physicians concerning whether, or on what terms, to contract with a payor. Paragraph II.C prohibits them from attempting to engage in any action prohibited by Paragraph II.A or II.B. Paragraph II.D prohibits them from inducing anyone to engage in any action prohibited by Paragraphs II.A through II.C.

Paragraph II also contains three provisos intended to clarify certain types of agreements that Paragraph II does not prohibit. The first proviso applies to Ms. Brauchler, the second to Dr. Guese, and the third to PISD. Each provides that nothing in Paragraph II prohibits the applicable Respondent from engaging in conduct that is reasonably necessary to form, participate in, or act in furtherance of, a ''qualified risk-sharing joint arrangement'' or a ''qualified clinically-integrated joint arrangement.'' The proviso applies to PISD only if the physicians who participate in the arrangement are available to enter into payor contracts outside the arrangement, *i.e.*, the arrangement is not exclusive.

As defined in the proposed order, a ''qualified risk-sharing joint arrangement'' must satisfy two conditions. First, all physician participants must share substantial financial risk through the arrangement and thereby create incentives for the physician participants jointly to control costs and improve quality by managing the provision of services. Second, any agreement concerning reimbursement or other terms of conditions of dealing must be reasonably necessary to obtain significant efficiencies through the joint arrangement. The definition of financial risk-sharing tracks the discussion of that term contained in the Health Care Statements.

As defined in the proposed order, a ''qualified clinically-integrated joint arrangement'' also must satisfy two conditions. First, all physician participants must participate in active and ongoing programs to evaluate and modify their clinical practice patterns, creating a high degree of

interdependence and cooperation among physicians, in order to control costs and ensure the quality of services provided. Second, any agreement concerning reimbursement or other terms or conditions of dealing must be reasonably necessary to obtain significant efficiencies through the joint arrangement. This definition also reflects the analysis contained in the Health Care Statements.

Paragraph II's provisos, as they apply to Dr. Guese and Ms. Brauchler, also provide that Paragraph II does not prohibit them from facilitating an agreement solely between physicians who are part of the same medical group practice. The proposed order defines such a practice as a bona fide, integrated firm in which physicians practice medicine together as partners, shareholders, owners, members, or employees, or in which only one physician practices medicine.

Paragraph III prohibits Ms. Brauchler, for a period of three years, from negotiating with any payor on behalf of any current or past member of PISD, and from advising any current or past member of PISD to accept or reject any term, condition, or requirement of dealing with any payor.

Ms. Brauchler is not prohibited from performing legitimate ''messenger'' services, including with respect to PISD. As noted above, a properly constituted messenger can efficiently facilitate the establishment of physician-payor contracts and avoid fostering unlawful agreements among the participating physicians. As set forth in the proposed complaint, however, while Ms. Brauchler purported to operate as a legitimate messenger, in practice she fostered anticompetitive physician agreements by negotiating directly with payors for higher fees on behalf of PISD's entire membership, and by advising PISD's members collectively to reject various payor offers and to engage in concerted refusals to deal. For this reason, Paragraph III is a necessary and appropriate supplement to Paragraph II's provisions. Under the proposed order, Ms. Brauchler may serve as PISD's messenger, but, pursuant to Paragraph III, may not negotiate for or advise any PISD member with respect to payor contracts.

Paragraph IV.C requires PISD to terminate, without penalty at any payor's request, current contracts with payors with respect to providing physician services. This provision is intended to eliminate the effects of Respondent's anticompetitive concerted actions. The remaining provisions of Paragraph IV and Paragraphs V through VIII of the proposed order impose obligations on Respondents with respect to distributing the proposed complaint and order to PISD's members and to offer specified persons, and reporting information to the Commission.

The proposed order will expire in 20 years.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 02–12953 Filed 5–22–02; 8:45 am]

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GENERAL SERVICES ADMINISTRATION

Federal Supply Service

GSA Standard Tender of Service (STOS), GSA National Rules Tender No. 100–D, Item 1300 Fuel Related General Rate Adjustment (FRGRA)

AGENCY: Federal Supply Service, GSA.

ACTION: Notice of amendment to STOS with request for comments.

SUMMARY: The General Services Administration (GSA), in compliance with 41 U.S.C. 418b, is publishing for comment in the attachment to this notice an amendment to Item 1300, Fuel Related General Rate Adjustment (FRGRA), of the GSA National Rules Tender No. 100–D, a part of the GSA STOS. Item 1300 offers transportation service providers (TSP's) that participate in GSA's STOS, a means to recover operating cost increases as a result of sudden and unforeseen increases in the price of diesel fuel. Correspondingly, the item provides for a downward adjustment when the price of diesel fuel suddenly or unexpectedly decreases. Without this provision, TSP's could compensate for operating expenses changes due to sudden and unforeseen fuel cost increases or decreases only twice yearly when GSA implements new transportation rates solicited under its semiannual Request for Rates Offers.

DATES: Please submit your comments by June 24, 2002.

ADDRESSES: Mail comments to the General Services Administration, Travel and Transportation Management Division (FBL), Crystal Mall Bldg. 4, Rm. 812, 1941 Jefferson Davis Highway, Arlington, VA 22202, Attn: Raymond Price (Re: Item 1300, Fuel Related General Rate Adjustment, Federal Register Notice).

FOR FURTHER INFORMATION CONTACT: Mr. Raymond Price, Transportation Programs Branch, by phone at 703–305–7536 or by e-mail at *raymond.price@gsa.gov.*

SUPPLEMENTARY INFORMATION: Item 1300 inadvertently was omitted when the currently effective version of the STOS was implemented upon publication in the **Federal Register** (66 FR 63061, December 4, 2001). This **Federal Register** publication of Item 1300 serves to correct omission of Item 1300 from the December 4, 2001, version of the STOS, and to incorporate this item in the STOS in amended version that provides TSP's a means of compensating for operating expenses changes due to sudden and unforeseen fuel cost increases or decreases.

Dated: May 16, 2002.

Tauna T. Delmonico,

Director, Travel and Transportation, Management Division.

Section 3—Fuel Related General Rate Adjustment

Item 1300 Fuel Related General Rate Adjustment (FRGRA)

The provisions of subsections A through E of this section govern a Fuel Related General Rate Adjustment (FRGRA) that a Transportation Service Provider (TSP) participating in this STOS (including revisions to or reissues thereof) makes to its line-haul charge.

A. *General.* The FRGRA provides a TSP flexibility to obtain reasonable relief from sudden and unforeseen increases in diesel fuel prices. Additionally, the FRGRA requires a TSP to correspondingly discount its line-haul charge when there are sudden and unforeseen decreases in diesel fuel prices. Since fuel related rate adjustments for gradual changes in a TSP's fuel related costs over a longer period of time are beyond the purpose of this provision, a TSP should consider gradual fuel price changes when it submits or supplements its STOS rates during a rate filing open window if such changes significantly affect the TSP's operating costs.

B. *Application.* The FRGRA is applicable to all GSA negotiated/accepted rate offers as well as rate offers negotiated/accepted by a Federal agency that participates in the STOS. The FRGRA may be waived or altered only by the Freight Program Management Office (FPMO) or appropriate Federal agency that negotiated/accepted the rate offer.

C. *Setting Baseline.* Diesel fuel price ranges and corresponding applicable percent rate adjustment levels were collaboratively established with the motor TSP industry as of November 2000. The levels specified in this section reflect current standard industry practice and will be reviewed and revised on an as-needed basis.