



# Department of Justice

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## **JUSTICE DEPARTMENT REACHES SETTLEMENT WITH TEXAS HOSPITAL PROHIBITING ANTICOMPETITIVE CONTRACTS WITH HEALTH INSURERS**

### ***Department Says United Regional's Contracts Unlawfully Maintain Monopoly Power***

WASHINGTON The Department of Justice announced today that it has reached a settlement with United Regional Health Care System of Wichita Falls, Texas, that prohibits it from entering into contracts that improperly inhibit commercial health insurers from contracting with United Regional's competitors. The department said that United Regional unlawfully used these contracts to maintain its monopoly for hospital services in violation of Section 2 of the Sherman Act, causing consumers to pay higher prices for health care services. This is the first case brought by the department since 1999 that challenges a monopolist with engaging in traditional anticompetitive unilateral conduct.

The Department of Justice's Antitrust Division, along with the Texas Attorney General's office, filed a civil antitrust lawsuit in U.S. District Court for the Northern District of Texas, along with a proposed settlement that, if approved by the court, would resolve the lawsuit.

"Unfettered competition among hospitals is vital to ensuring that patients receive high-quality, low-cost health care," said Christine Varney, Assistant Attorney General in charge of the Department of Justice's Antitrust Division. "Today's settlement prevents a dominant hospital from using its market power to harm consumers by undermining its competitors' ability to compete in the marketplace."

According to the complaint, United Regional is by far the largest hospital in Wichita Falls. Its share of general acute-care inpatient hospital services is approximately 90 percent, and its share of outpatient surgical services is more than 65 percent. It is the region's only provider of certain essential services such as cardiac surgery, obstetrics and high-level trauma care. In Wichita Falls, United Regional's average per-day rate for inpatient hospital services sold to commercial health insurers is about 70 percent higher than its closest competitor for the services that are offered by both hospitals.

The department said that in order to maintain its monopoly in the provision of inpatient hospital and outpatient surgical services, United Regional systematically required most commercial health insurers to enter into contracts that effectively prohibited them from contracting with United Regional's competitors. United Regional's contracts required these

insurers to pay significantly higher prices if they contracted with a nearby competing facility. Since United Regional is a must-have hospital for any insurer that wants to sell health insurance in the Wichita Falls area, and because the penalty for contracting with United Regional's rivals was so significant, almost all insurers offering health insurance in Wichita Falls entered into exclusionary contracts with United Regional. As a result, competing hospitals and facilities could not obtain contracts with most insurers and were less able to compete, helping United Regional maintain its monopoly in the relevant markets and raising health-care costs to the detriment of consumers.

The proposed settlement, which if accepted by the court would be in effect for seven years, restores lost competition by prohibiting United Regional from using agreements with commercial health insurers that improperly inhibit insurers from contracting with United Regional's competitors. In particular, United Regional is prohibited from conditioning the prices or discounts that it offers to commercial health insurers based on whether those insurers contract with other health-care providers and from inhibiting insurers from entering into agreements with United Regional's rivals. United Regional is also prohibited from taking any retaliatory actions against an insurer that enters into an agreement with a rival provider.

United Regional Health Care System is a private Texas nonprofit corporation, with its principal place of business in Wichita Falls. United Regional had net patient revenues of approximately \$265 million for 2009.

The proposed settlement, along with the department's competitive impact statement, will be published in the Federal Register, as required by the Antitrust Procedures and Penalties Act. Any person may submit written comments concerning the proposed settlement within 60 days of its publication to Joshua H. Soven, Chief, Litigation I Section, Antitrust Division, U.S. Department of Justice, 450 Fifth St. N.W., Suite 4100, Washington, D.C. 20530. At the conclusion of the 60-day comment period, the court may enter the final judgment upon a finding that it serves the public interest.

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