Puerto Rico’s Antitrust Division secures civil penalties against nephrologists for anticompetitive practices in the health care market

(February 2, 2015) Eight nephrologists from Puerto Rico’s southwest region were ordered to pay $120 thousands in fines after the Antitrust Division of the Puerto Rico Department of Justice proved that these physicians incurred in price-fixing, boycott against the Commonwealth’s health plan “Mi Salud”, as well as concerted denial of medical services to Mi Salud’s indigent patients.

Assistant Attorney General Jesús M. Alvarado-Rivera, commented that these nephrologists, who represented 80% of nephrology services in the southwest region during 2012, colluded to fix and increase the rates they would charge the “Mi Salud” health plan for the treatment of renal patients. However, when they initially failed to obtain the increase in payments they were demanding, these physicians agreed to cancel their contracts with Mi Salud, producing a boycott. They also agreed to deny their nephrology services to the beneficiaries of Mi Salud.

The physicians that violated Puerto Rico’s antitrust statute are: Jorge Grillasca Palou, Práxedes E. Alvarez Santiago, Daniel Pérez Brisebois, Rafael García Nieves, Francis M. Vázquez Roura, Angel B. Rivera Santos, Cosme D. Santos Torres and Juan L. Vilaró Chardón. Prior to this case, they all settled charges with the Federal Trade Commission, and faced criminal charges filed by the Antitrust Division on May, 2013.

“These physicians were not only supposed to be competing in the nephrology services market of the southwest region, they almost made up the totality of the market. Their practices of price-fixing, boycott and supply restriction are all conducts well recognized as illegal under our Antitrust Statute”, explained the Assistant Attorney General.

The crisis generated by the nephrologists’ denial of services forced Mi Salud to concede to the payment increases demanded by the eight nephrologists, which cost $140,000 in FY2013, according the Administration of Health Services of Puerto Rico. The Administration estimates that the when
these payment increases had to be extended to all physicians, Mi Salud’s costs increased between $4 and $6 million.

After two years of litigation and evidentiary hearings, Puerto Rico’s Department of Consumer Affairs granted the complaint of the Antitrust Division and fined the nephrologists.

“No businesses or professionals, including physicians, are allowed to conspire with other competitors to decide their prices or their contracting terms. Our message has been clear and consistent: we will make sure to eliminate and punish any anticompetitive agreement. Regardless of whether the anticompetitive conduct is part of a small or large operation, our consumers, and in this case the indigent patients, have a right to enjoy the benefits of competition”, concluded Alvarado-Rivera.

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