

IN THE MATTER OF
MINNESOTA STATE MEDICAL ASSOCIATION, ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT

Docket C-2909. Complaint, Oct. 31, 1977 — Decision, Oct. 31, 1977

This consent order, among other things, requires a St. Paul, Minn. medical association and its component societies, to cease publishing, distributing or contributing to the development of relative value scales and monetary conversion factors which tend to establish prices or otherwise influence fees for medical and surgical services. Further, respondents are required to withdraw such material which has already been published or circulated, and to send copies of the complaint and order to their member societies.

Appearances

For the Commission: *Lawrence E. Gray and Judith A. Moreland.*

For the respondents: *Dorsey, Windhorst, Hannaford, Whitney & Halladay, Minneapolis, Minn.*

COMPLAINT

Pursuant to the provision of the Federal Trade Commission Act, as amended, 15 U.S.C. 41, *et. seq.*, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the Minnesota State Medical Association and the county and district medical societies (as named in the caption hereof) which are components of the Minnesota State Medical Association have violated the provisions of Section 5 of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges as follows:

PARAGRAPH 1. Respondent, the Minnesota State Medical Association ("MSMA"), is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota, with its principal office located at 101 East Fifth St., St. Paul, Minnesota.

PAR. 2. The respondent county and district medical societies are chartered by MSMA and are referred to as component societies. Membership in MSMA is available only through membership in a component society, and all members of component societies are required to be members of MSMA.

PAR. 3. Respondent, Clay-Becker County Medical Society, is a corporation organized, existing and doing business under and by

virtue of the laws of the State of Minnesota, with its principal office located at 124 E. Frazee St., Detroit Lakes, Minnesota.

Respondent, The Freeborn County Medical Society, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota, with its principal office located at 210 N. St. Mary, Albert Lea, Minnesota.

Respondent, Headwaters Medical Society, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota, with its principal office located at Bemidji Clinic, Ltd., Bemidji, Minnesota.

Respondent, Hennepin County Medical Society, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota, with its principal office located at 20 S. Washington Ave., Minneapolis, Minnesota.

Respondent, McLeod County Medical Society, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota, with its principal office located at 126 N. Franklin, Hutchinson, Minnesota.

Respondent, Minnesota Southwestern Medical Society (d/b/a Blue Earth County Medical Society), is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota, with its principal office located at Box 589, Lake Crystal, Minnesota.

Respondent, Ramsey County Medical Society, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota, with its principal office located at 3220 Bellaire Ave., White Bear Lake, Minnesota.

Respondent, Scott-Carver County Medical Society, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota, with its principal office located at Shakopee Medical Center, Shakopee, Minnesota.

Respondent, Stearns-Benton County Medical Society, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota, with its principal office located at Doctors' Park, St. Cloud, Minnesota.

Respondent, Steele County Medical Society, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota, with its principal office located at 920 S. Cedar, Owatonna, Minnesota.

Respondent, Upper Mississippi Medical Society, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota, with its principal office located at 302 3rd Ave., N.E., Little Falls, Minnesota.

Respondent, Wabasha County Medical Society, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota, with its principal office located at Community Clinic, Wabasha, Minnesota.

Respondent, Winona County Medical Society, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota, with its principal office located at Winona Clinic, Winona, Minnesota.

Respondent, Blue Earth Valley Medical Society, is an unincorporated association having its principal office at 117 W. 5th St., Blue Earth, Minnesota.

Respondent, Brown County Medical Society, is an unincorporated association having its principal office at New Ulm Medical Clinic, New Ulm, Minnesota.

Respondent, Camp Release District Medical Society, is an unincorporated association having its principal office at Dawson Clinic, Dawson, Minnesota.

Respondent, East Central Minnesota Medical Society, is an unincorporated association having its principal office at Chisago Lakes Medical Center, Chisago City, Minnesota.

Respondent, Goodhue County Medical Society, is an unincorporated association having its principal office at Interstate Clinic, Red Wing, Minnesota.

Respondent, Lyon-Lincoln County Medical Society, is an unincorporated association having its principal office at 508 E. College Drive, Marshall, Minnesota.

Respondent, Mid Minnesota Medical Society, is an unincorporated association having its principal office at Willmar Medical Center, 101 Willmar Ave., Willmar, Minnesota.

Respondent, Mower County Medical Society, is an unincorporated association having its principal office at Suite 115, 100 Building, Austin, Minnesota.

Respondent, Nicollet-Le Sueur County Medical Society, is an unincorporated association having its principal office at 622 Sunrise Drive, St. Peter, Minnesota.

Respondent, Park Region District and County Medical Society, is an unincorporated association having its principal office at 615 S. Mill, Fergus Falls, Minnesota.

Respondent, Range Medical Society, is an unincorporated association with its principal office at 429 3rd St., International Falls, Minnesota.

Respondent, Red River Valley Medical Society, is an unincorporat-

ed association with its principal office at R.R. #2, Box 72, E. Grand Forks, Minnesota.

Respondent, Rice County Medical Society, is an unincorporated association with its principal office at 924 N.E. First St., Faribault, Minnesota.

Respondent, St. Louis County Medical Society, is an unincorporated association with its principal offices at 302 Medical Arts Building, Duluth, Minnesota.

Respondent, Sibley County Medical Society, is an unincorporated association with its principal office at Arlington Clinic, Arlington, Minnesota.

Respondent, Southwestern Minnesota Medical Society, is an unincorporated association with its principal office at 215 N. Cedar, Luverne, Minnesota.

Respondent, Wakota Medical Society, is an unincorporated association having its principal office at 305 S. Greeley St., Stillwater, Minnesota.

Respondent, Waseca County Medical Society, is an unincorporated association with its principal office at 312 N. Main, Janesville, Minnesota.

Respondent, West Central Minnesota Medical Society, is an unincorporated association with its principal office at 23 Montana, Morris, Minnesota.

Respondent, Wright County Medical Society, is an unincorporated association with its principal office at 207 First St., S., Buffalo, Minnesota.

Respondent, Zumbro Valley Medical Society, is an unincorporated association with its principal office at Olmsted Medical Group, Rochester, Minnesota.

PAR. 4. MSMA and the component societies have approximately 5,000 members. Active membership in MSMA and the component societies is open to physicians licensed to practice medicine in the State of Minnesota or in any other state of the District of Columbia, persons authorized by law to act as resident physicians in the State of Minnesota, and persons engaged within the State of Minnesota in an activity allied to medicine which does not require licensure from the State of Minnesota. The membership also includes affiliate members, persons distinguished for their services in a field of science allied to medicine or in the field of public health, and honorary members. Affiliate and honorary members may not vote or hold office in MSMA.

Members of the component societies elect representatives to the MSMA House of Delegates, which constitutes the governing body of

MSMA. The House of Delegates elects councilors and officers who together constitute the Council of MSMA, which manages the affairs of MSMA between sessions of the House of Delegates.

PAR. 5. Active members are divided into the following classes:

(a) Regular active members are those members who pay full dues and assessments of MSMA;

(b) Life active members are regular active members who have reached the age of 70 years and have been members of MSMA or a component society for 40 years;

(c) Service active members are members on duty in the armed forces or the public health service of the United States or who are engaged in medical missionary work outside the United States;

(d) Associate active members have retired from the active practice of medicine or, because of disability, are unable to engage in the active practice of medicine and are not engaged in the active practice of medicine;

(e) Residency active members are engaged in an approved residency program;

(f) Intern active members are engaged in an approved internship program; and

(g) Medical student active members are studying within the State of Minnesota for the degree of Doctor of Medicine.

PAR. 6. Many members of MSMA and of the component societies are licensed physicians engaged in the private practice of medicine and surgery and derive substantial portions of their professional income from fees for medical and surgical procedures charged directly to patients or to insurers.

PAR. 7. The acts and practices of MSMA and the component societies are in or affect commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 8. Starting in 1959 and continuing through the present, MSMA prepared, published, and circulated to its members and others two editions of a document entitled "Minnesota Relative Value Index" which set forth in nonmonetary units comparative numerical values for procedures performed and services rendered by physicians and other health care practitioners. Such documents are commonly referred to as "relative value scales." Each value is convertible into a monetary fee by the application to it of a dollar conversion factor. Both editions of the Minnesota Relative Value Index have been supplemented or modified from time to time.

PAR. 9. At various times since 1961 and continuing until the present, component societies have adopted, published, circulated, suggested, or recommended to their individual members conversion

factors applicable or prospectively applicable to the Minnesota Relative Value Index or to other relative value scales.

PAR. 10. The preparation, publication, and circulation by MSMA of the Minnesota Relative Value Index have the effect of establishing, maintaining, or otherwise influencing the fees which physicians and other health care practitioners charge for their professional services, and are in violation of Section 5 of the Federal Trade Commission Act, as amended.

PAR. 11. The adoption, publication, circulation, suggestion, and recommendation by component societies to their individual members of conversion factors applicable or prospectively applicable to the Minnesota Relative Value Index or to other relative value scales have the effect of establishing, maintaining, or otherwise influencing the fees which physicians and other health care practitioners charge for their professional services, and are in violation of Section 5 of the Federal Trade Commission Act, as amended.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of Section 5 of the Federal Trade Commission Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having considered the agreement and having provisionally accepted same and placed it on the public record for a period of sixty (60) days, and having duly considered the comments filed thereafter by interested persons pursuant to Section 2.34 of the Commission's Rules, now in further conformity with the procedure provided by Section 2.34 of its Rules hereby issues its decision in disposition of the proceeding against the above-named respondents, makes the following jurisdictional findings, and enters the following findings and order:

1. Respondent, Minnesota State Medical Association ("MSMA"),

is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota, with its principal office located at 101 East Fifth St., St. Paul, Minnesota.

2. The component societies as listed and further described below are corporations and unincorporated associations chartered by MSMA on a county or district basis.

Respondent, Clay-Becker County Medical Society, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota, with its principal office located at 124 E. Frazee St., Detroit Lakes, Minnesota.

Respondent, The Freeborn County Medical Society, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota, with its principal office located at 210 N. St. Mary, Albert Lea, Minnesota.

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Respondent, Wright County Medical Society, is an unincorporated association with its principal office at 207 First St., S., Buffalo, Minnesota.

Respondent, Zumbro Valley Medical Society, is an unincorporated association with its principal office at Olmsted Medical Group, Rochester, Minnesota.

3. The Federal Trade Commission has jurisdiction over the subject matter of this proceeding and over the respondents, and the proceeding is in the public interest.

ORDER

I

A. The term "relative value scale" means any list, compilation, or schedule which sets forth comparative numerical values for procedures performed and/or services rendered by physicians and other health care practitioners, without regard to whether those values are expressed in monetary or non-monetary terms.

B. The term "conversion factor" means any monetary value multiplier used or intended to be used to convert non-monetary values in a relative value scale to monetary fees.

C. The term "MSMA" means the Minnesota State Medical Association.

D. The term "component society" means a county or district medical society chartered by MSMA.

E. The term "effective date of this order" means the date of service of this order.

II

It is ordered, That MSMA and each of the component societies, the successors, or assigns, and the officers, agents, representatives and employees of each of them, directly or through any corporation, subsidiary, division or other device, shall:

A. Cease and desist from directly or indirectly initiating, originating, developing, publishing, or circulating the whole or any part of any proposed or existing relative value scale(s);

B. Cease and desist from directly or indirectly advising in favor of or against the use of, or contributing to the whole or any part of any proposed or existing relative value scale(s);

C. Cease and desist from directly or indirectly initiating, originating, developing, publishing, circulating, adopting, contributing to, recommending, suggesting, or advising in favor of or against the use of, any and all conversion factors applicable or prospectively applicable to the whole or any part of any existing or proposed relative value scale(s); and

D. Permanently cancel, repeal, abrogate, and withdraw any and all relative value scales and conversion factors which any of them has heretofore initiated, originated, developed, published, circulated, adopted, advised in favor of, recommended, suggested, or contributed to;

Provided, however, that nothing contained in this order shall prohibit MSMA or any component society, or any officer, agent,

representative, or employee of MSMA or any component society from furnishing testimony to any government body, committee or instrumentality, or from furnishing to any third party or government body, committee, or instrumentality such information as may be requested; to the extent, however, that such information or testimony may bear directly or indirectly on compensation levels for procedures performed and/or services rendered by physicians and other health care practitioners, it shall be limited to historical data, free of editing or interpretation, and shall be completely described as to methodology; and

Provided further, that nothing contained in this order shall prohibit MSMA or any component society from initiating, originating, developing, publishing, circulating, adopting, contributing to, recommending, suggesting, or advising in favor of or against the use of any list or compilation of standardized terminology describing procedures performed and/or services rendered by physicians and other health care practitioners, so long as such list or compilation does not directly or indirectly set forth absolute or comparative numerical values for any such procedures or services.

III

It is further ordered, That MSMA shall, within thirty (30) days after the effective date of this order, distribute by mail a copy of the Commission's complaint and order in this matter, as well as a letter, in the form shown as Appendix "A" to this order, to each of its members (except service active members and associate active members) and to each other recipient known to it of any edition or version of the Minnesota Relative Value Index, instructing such members and recipients to return to MSMA all copies of the Minnesota Relative Value Index in their possession, including all supplements, addenda, and additions thereto.

IV

It is further ordered, That, subsequent to the effective date of this order, MSMA shall not charter any component society or other medical society unless the charter of such component society or other medical society incorporates in substance the prohibitions and requirements contained in Paragraph II of this order.

V

It is further ordered, That MSMA and each component society shall notify the Commission at least thirty (30) days prior to any proposed

change in its organization which might affect compliance obligations under this order, such as, but not limited to, dissolution, the emergence of a successor corporation, association, or society, and the creation and/or dissolution of component societies.

VI

It is further ordered, That MSMA and each component society shall, within sixty (60) days after the effective date of this order, file with the Commission a written report showing in detail the manner and form of its compliance with each of the provisions of the order.

VII

Nothing in this order shall be construed to exempt MSMA or any component society from complying with the antitrust laws or the Federal Trade Commission Act. The fact that any activity is not prohibited by this order shall not bar a challenge to it under such laws.

APPENDIX A

(MSMA Letterhead)

TO: MSMA members and recipients of the Minnesota Relative Value Index

As you may be aware, the FTC has been investigating activities of MSMA and the component societies involving the development and use of the Minnesota Relative Value Index. The Council of the Association and the component societies no longer desire to continue such activities and have entered into an agreement with the Federal Trade Commission to discontinue all Relative Value Index activities.

This agreement resulted in the issuance by the Federal Trade Commission on _____ of a complaint and the entry of a consent order which requires, in essence, that MSMA and the component societies:

- (a) cease publishing and participating in the development of relative value indices;
- (b) refrain from publishing, recommending, or suggesting dollar conversion factors applicable to relative value indices;
- (c) withdraw the relative value indices and any conversion factors which have already been published or recommended;
- (d) distribute a copy of the complaint and consent order to MSMA members and to every recipient of the Minnesota Relative Value Index; and
- (e) instruct all recipients of the Minnesota Relative Value Index to return them, with all supplements, addenda, and additions thereto, to MSMA.

The complaint of the FTC alleges basically that the MSMA Relative Value Index and the adoption of uniform conversion factors have the effect of influencing fees charged by physicians. However, the consent agreement with the FTC states that it does not constitute an admission by MSMA or any component society that the law has been violated, and that it is for settlement purposes only.

In accordance with the provisions of the FTC's order, you are to cease using and are to return all copies of any edition of the Minnesota Relative Value Index in your possession.

The proper mailing address is:

Minnesota State Medical Association
101 East Fifth Street
St. Paul, Minnesota 55101

Copies of the FTC's complaint and order are enclosed.

Sincerely,

Chairman of the Council

Complaint

90 F.T.C.

IN THE MATTER OF
TRANS WORLD ACCOUNTS, INC., ET AL.

ORDER, OPINION, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT

Docket 9059. Complaint, Sept. 30, 1975 — Final Order, Oct. 25, 1977

This order, among other things, requires a Santa Rosa, Calif. debt collection agency to cease misrepresenting the likelihood or imminency of legal action; and to cease using, or placing in the hands of others, materials which simulate telegraphic communications, or which may otherwise mislead debtor recipients as to the nature, import or urgency of such communications.

Appearances

For the Commission: *Ralph E. Stone.*

For the respondents: *Kirt F. Zeigler, Spridgen, Barrett, Achor, Luckhardt, Anderson & James, Santa Rosa, Calif.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Trans World Accounts, Inc., a corporation, and Floyd T. Watkins, individually and as an officer of said corporation, hereinafter sometimes referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Trans World Accounts, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 2800 Cleveland Ave., Santa Rosa, California.

Respondent Floyd T. Watkins is an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time in the past have been, engaged in the advertising, offering for sale and sale of a service to assist in the collection of alleged delinquent debts. This service consists of the preparation by the respondents of a [2] series