BURDEN TABLE—Continued

Citation 30 CFR 250 Subpart O	Reporting & recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
1503(d)(1)	Upon request, provide BSEE with copies of training documentation for personnel involved in well control, deepwater well control, or production safety operations within the past 5 years.	16	1	16
1503(d)(2)	Upon request, provide BSEE with a copy of your training plan.	16	1	16
1507(b)	Employee oral interview conducted by BSEE.	2	1	2
1507(c), (d); 1508; 1509	Written testing conducted by BSEE or authorized representative.	Not considered information collection under 5 CFR 1320.3(h)(7).		0
1510(b)	Revise training plan and submit to BSEE.	40	1	40
250.1500–1510	General departure or alternative compliance requests not specifically covered elsewhere in subpart O.	8	1	8
Total Hour Burden			6	202

Estimated Reporting and Recordkeeping Non-Hour Cost Burden: We have not identified any non-hour cost burdens associated with this collection of information.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.,)* provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501, *et seq.,*) requires each agency ''. . . to provide notice . . . and otherwise consult with members of the public and affected agencies concerning each proposed collection of information . . .'' Agencies must specifically solicit comments to: (a) Evaluate whether the collection is necessary or useful; (b) evaluate the accuracy of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of technology.

To comply with the public consultation process, on April 10, 2015, we published a **Federal Register** notice (80 FR 19352) announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. In addition, § 250.199 provides the OMB Control Number for the information collection requirements imposed by the 30 CFR 250, subpart O regulations and forms. The regulation also informs the public that they may comment at any time on the collections of information and provides the address to which they should send comments. We received one comment in response to the **Federal Register** notice or unsolicited comments from respondents covered under these regulations. The comment was from a private citizen and it was not germane to the paperwork burden of this ICR.

Public Availability of Comments: Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: June 16, 2015.

Keith Good,

Acting Deputy Chief, Office of Offshore Regulatory Programs.

[FR Doc. 2015–16599 Filed 7–6–15; 8:45 am]

BILLING CODE 4310–VH–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States and State of Michigan v. Hillsdale Community Health Center, et al.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulation and Order, and Competitive Impact Statement have been filed with the United States District Court for the Eastern District of Michigan in *United States and State of Michigan* v. *Hillsdale Community Health Center, et al.,* Civil Action No. 15–cv–12311 (JEL) (DRG). On June 25, 2015, the United States and the State of Michigan filed a Complaint alleging that Defendant Hillsdale Community Health Center (''Hillsdale'') entered into agreements with Defendants W.A. Foote Memorial Hospital, d/b/a Allegiance Health (''Allegiance''), Community Health Center of Branch County (''Branch''), and ProMedica Health System (''ProMedica'') that unlawfully allocated territories for the marketing of competing healthcare services in violation of section 1 of the Sherman Act, 15 U.S.C. 1, and section 2 of the Michigan Antitrust Reform Act, MCL 445.772. The proposed Final Judgment, submitted at the same time as the Complaint, prohibits the settling Defendants—Hillsdale, Branch, and ProMedica—from agreeing with other healthcare providers to prohibit or limit marketing or to divide any geographic market or territory. The proposed Final Judgment also prohibits the settling Defendants from communicating with other Defendants about marketing plans, with limited exceptions.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection at the Department of Justice, Antitrust Division, Antitrust Documents Group, 450 Fifth Street NW., Suite 1010, Washington, DC 20530 (telephone: 202–514–2481), on the Department of Justice's Web site at *http://www.justice.gov/atr,* and at the Office of the Clerk of the United States District Court for the Eastern District of Michigan. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment on the proposed Final Judgment is invited within 60 days of the date of this notice. Such comments, including the name of the submitter, and responses thereto, will be posted on the U.S. Department of Justice, Antitrust Division's internet Web site, filed with the Court and, under certain circumstances, published in the **Federal Register**. Comments should be directed to Peter J. Mucchetti, Chief, Litigation I Section, Antitrust Division, Department of Justice, 450

Fifth Street NW., Suite 4100, Washington, DC 20530 (telephone: 202–307–0001).

Patricia A. Brink,

Director of Civil Enforcement.

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN

UNITED STATES OF AMERICA and STATE OF MICHIGAN, *Plaintiffs,* v. HILLSDALE COMMUNITY HEALTH CENTER, W.A. FOOTE MEMORIAL HOSPITAL, D/B/A ALLEGIANCE HEALTH, COMMUNITY HEALTH CENTER OF BRANCH COUNTY, and PROMEDICA HEALTH SYSTEM, INC., *Defendants.*

CASE NO.: 2:15-cv-12311

Hon. Judith E. Levy

COMPLAINT

The United States of America and the State of Michigan bring this civil antitrust action to enjoin agreements by Defendants Hillsdale Community Health Center (''Hillsdale''), W.A. Foote Memorial Hospital, d/b/a Allegiance Health (''Allegiance''), Community Health Center of Branch County (''Branch''), and ProMedica Health System, Inc. (''ProMedica'') (collectively, ''Defendants'') that unlawfully allocate territories for the marketing of competing healthcare services and limit competition among Defendants.

NATURE OF THE ACTION

1. Defendants are healthcare providers in Michigan that operate the only general acute-care hospital or hospitals in their respective counties. Defendants directly compete with each other to provide healthcare services to the residents of south-central Michigan. Marketing is a key component of this competition and includes advertisements, mailings to patients, health fairs, health screenings, and outreach to physicians and employers.

2. Allegiance, Branch, and ProMedica's Bixby and Herrick Hospitals (''Bixby and Herrick'') are Hillsdale's closest Michigan competitors. Hillsdale orchestrated agreements to limit marketing of competing healthcare services. Allegiance explained in a 2013 oncology marketing plan: ''[A]n agreement exists with the CEO of Hillsdale Community Health Center, Duke Anderson, to not conduct marketing activity in Hillsdale County.'' Branch's CEO described the Branch agreement with Hillsdale as a ''gentlemen's agreement not to market services.'' A ProMedica communications specialist described the ProMedica agreement with Hillsdale in an email: ''The agreement is that they stay our [sic] of our market and we stay out of theirs unless we decide to collaborate with them on a particular project.''

3. The Defendants' agreements have disrupted the competitive process and harmed patients, physicians, and employers. For instance, all of these agreements have deprived patients, physicians, and employers of information they otherwise would have had when making important healthcare decisions. In addition, the agreement between Allegiance and Hillsdale has deprived Hillsdale County patients of free medical services such as health screenings and physician seminars that they would have received but for the unlawful agreement. Moreover, it denied Hillsdale County employers the opportunity to develop relationships with Allegiance that could have allowed them to improve the quality of their employees' medical care.

4. Defendants' senior executives created and enforced these agreements, which lasted for many years. On certain occasions when a Defendant violated one of the agreements, executives of the aggrieved Defendant complained about the violation and received assurances that the previously agreed upon marketing restrictions would continue to be observed going forward.

5. Defendants' agreements are naked restraints of trade that are *per se* unlawful under Section 1 of the Sherman Act, 15 U.S.C. 1, and Section 2 of the Michigan Antitrust Reform Act, MCL 445.772.

JURISDICTION, VENUE, AND INTERSTATE COMMERCE

6. The United States brings this action pursuant to Section 4 of the Sherman Act, 15 U.S.C. 4, to prevent and restrain Defendants' violations of Section 1 of the Sherman Act, 15 U.S.C. 1. The State of Michigan brings this action in its sovereign capacity under its statutory, equitable and/or common law powers, and pursuant to Section 16 of the Clayton Act, 15 U.S.C. 26, to prevent and restrain Defendants' violations of Section 2 of the Michigan Antitrust Reform Act, MCL 445.772.

7. This Court has subject matter jurisdiction over this action under Section 4 of the Sherman Act, 15 U.S.C. 4 (as to claims by the United States); Section 16 of the Clayton Act, 15 U.S.C. 26 (as to claims by the State of Michigan); and 28 U.S.C. 1331, 1337(a), 1345, and 1367.

8. Venue is proper in the Eastern District of Michigan under 28 U.S.C. 1391 and Section 12 of the Clayton Act, 15 U.S.C. 22. Each Defendant transacts business within the Eastern District of Michigan, all Defendants reside in the State of Michigan, and at least two Defendants reside in the Eastern District of Michigan.

9. Defendants all engage in interstate commerce and in activities substantially affecting interstate commerce. Defendants provide healthcare services to patients for which employers, health plans, and individual patients remit payments across state lines. Defendants purchase supplies and equipment from out-of-state vendors that are shipped across state lines.

DEFENDANTS

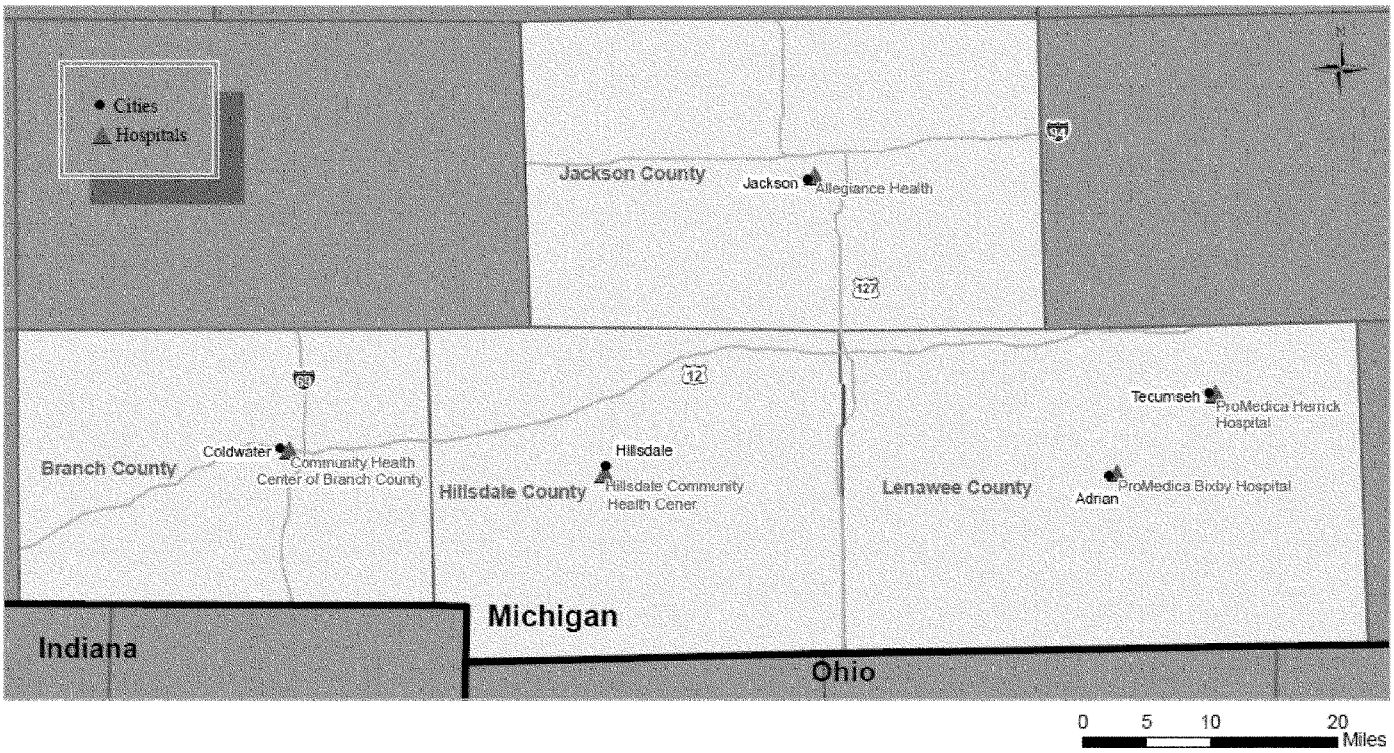
10. Hillsdale is a Michigan corporation headquartered in Hillsdale, Michigan. Its general acute-care hospital, which is in Hillsdale County, Michigan, has 47 beds and a medical staff of over 90 physicians.

11. Allegiance is a Michigan corporation headquartered in Jackson, Michigan. Its general acute-care hospital, which is in Jackson County, Michigan, has 480 beds and a medical staff of over 400 physicians.

12. Branch is a Michigan corporation headquartered in Coldwater, Michigan. Its general acute-care hospital, which is in Branch County, Michigan, has 87 beds and a medical staff of over 100 physicians.

13. ProMedica is an Ohio corporation headquartered in Toledo, Ohio, with facilities in northwest Ohio and southern Michigan. ProMedica's Bixby and Herrick Hospitals are both in Lenawee County, Michigan. Bixby is a general acute-care hospital with 88 beds and a medical staff of over 120 physicians. Herrick is a general acute-care hospital with 25 beds and a medical staff of over 75 physicians.

Map of Defendants' Hospitals



BACKGROUND ON HOSPITAL COMPETITION

14. Hillsdale competes with each of the other Defendants to provide many of the same hospital and physician services to patients. Hospitals compete on price, quality, and other factors to sell their services to patients, employers, and insurance companies. An important tool that hospitals use to compete for patients is marketing aimed at informing patients, physicians, and employers about a hospital's quality and scope of services. An executive from each Defendant has testified at deposition that marketing is an important strategy through which hospitals seek to increase their patient volume and market share.

15. Defendants' marketing includes advertisements through mailings and media such as local newspapers, radio, television, and billboards. Allegiance's marketing to patients also includes the provision of free medical services, such as health screenings, physician seminars, and health fairs. Some Defendants also market to physicians through educational and relationship-building meetings that provide physicians with information about those Defendants' quality and range of services. Allegiance also engages in these marketing activities with employers.

HILLSDALE'S UNLAWFUL AGREEMENTS

16. Hillsdale has agreements limiting competition with Allegiance, ProMedica, and Branch.

Unlawful Agreement Between Hillsdale and Allegiance

17. Since at least 2009, Hillsdale and Allegiance have had an agreement that limits Allegiance's marketing for competing services in Hillsdale County. As Allegiance explained in a 2013 oncology marketing plan: ''[A]n agreement exists with the CEO of Hillsdale Community Health Center, Duke Anderson, to not conduct marketing activity in Hillsdale County.''

18. In compliance with this agreement, Allegiance has excluded Hillsdale County from marketing campaigns since at least 2009. For example, Allegiance excluded Hillsdale County from the marketing plans outlined in the above-referenced 2013 oncology marketing plan. And according to a February 2014 board report, Allegiance excluded Hillsdale from marketing campaigns for cardiovascular and orthopedic services.

19. On at least two occasions, Hillsdale's CEO complained to Allegiance after Allegiance sent marketing materials to Hillsdale County residents. Both times—at the direction of Allegiance CEO Georgia Fojtasek—Allegiance's Vice President of Marketing, Anthony Gardner, apologized in writing to Hillsdale's CEO. In one apology he said, ''It isn't our style to purposely not honor our agreement.'' Mr. Gardner assured Hillsdale's CEO that Allegiance would not repeat this mistake.

20. Allegiance also conveyed its hands-off approach to Hillsdale in 2009 when Ms. Fojtasek told Hillsdale's CEO that Allegiance would take a ''Switzerland'' approach towards Hillsdale, and then confirmed this approach by mailing Hillsdale's CEO a Swiss flag.

21. Allegiance executives and staff have discussed the agreement in numerous correspondences and business documents. For example, Allegiance staff explained in a 2012 cardiovascular services analysis: ''Hillsdale does not permit [Allegiance] to conduct free vascular screens as they periodically charge for screenings.'' As a result, around that time, Hillsdale County patients were deprived of free vascular-health screenings.

22. In another instance, in 2014 Allegiance discouraged one of its newly employed physicians from giving a seminar in Hillsdale County relating to competing services. In response to the physician's request to provide the

seminar, the Allegiance Marketing Director asked the Vice President of Physician Integration and Business Development: ''Who do you think is the best person to explain to [the doctor] our restrictions in Hillsdale? We're happy to do so but often our docs find it hard to believe and want a higher authority to confirm.''

23. The agreement between Hillsdale and Allegiance has deprived Hillsdale County patients, physicians, and employers of information regarding their healthcare-provider choices and of free health-screenings and education.

Unlawful Agreement Between Hillsdale and ProMedica

24. Since at least 2012, Hillsdale and ProMedica have agreed to limit their marketing for competing services in one another's county.

25. This agreement has restrained marketing in several ways. For example, in June 2012, Bixby and Herrick's President asked Hillsdale's CEO if he would have any issue with Bixby marketing its oncology services to Hillsdale physicians. Hillsdale's CEO replied that he objected because his hospital provided those services. Bixby and Herrick's President responded that he understood. Bixby and Herrick then refrained from marketing their competing oncology services in Hillsdale County.

26. Another incident occurred around January 2012, when Hillsdale's CEO complained to Bixby and Herrick's President about the placement of a ProMedica billboard across from a physician's office in Hillsdale County. At the conclusion of the conversation, Bixby and Herrick's President assured Hillsdale's CEO that he would check into taking down the billboard.

27. ProMedica employees have discussed and acknowledged the agreement in multiple documents. For example, after Hillsdale's CEO called Bixby and Herrick's President to complain about ProMedica's billboard, a ProMedica communications specialist described the agreement to marketing colleagues via email: ''According to [Bixby and Herrick's President] any potential marketing (including network development) efforts targeted for the Hillsdale, MI market should be run by him so that he can talk to Hillsdale Health Center in advance. The agreement is that they stay our [sic] of our market and we stay out of theirs unless we decide to collaborate with them on a particular project.''

28. The agreement between Hillsdale and ProMedica deprived patients, physicians, and employers of Hillsdale and Lenawee Counties of information regarding their healthcare-provider choices.

Unlawful Agreement Between Hillsdale and Branch

29. Since at least 1999, Hillsdale and Branch have agreed to limit marketing in one another's county. In the fall of 1999, Hillsdale's then-CEO and Branch's CEO reached an agreement whereby each hospital agreed not to market anything but new services in the other hospital's county. Branch's CEO testified recently in deposition that ''There's a gentlemen's agreement not to market services other than new services.''

30. Branch has monitored Hillsdale's compliance with the agreement. For example, in November 2004, Hillsdale promoted one of its physicians through an advertisement in the Branch County newspaper. Branch's CEO faxed Hillsdale's then-CEO a copy of the advertisement, alerting him to the violation of their agreement.

31. In addition to monitoring Hillsdale's compliance, Branch has directed its marketing employees to abide by the agreement with Hillsdale. For example, Branch's 2013 guidelines for sending out media releases instructed that it had a ''gentleman's agreement'' with Hillsdale and thus Branch should not send media releases to the *Hillsdale Daily News*.

32. The agreement between Hillsdale and Branch deprived Hillsdale and Branch County patients, physicians, and employers of information regarding their healthcare-provider choices.

NO PROCOMPETITIVE JUSTIFICATIONS

33. The Defendants' anticompetitive agreements are not reasonably necessary to further any procompetitive purpose.

VIOLATIONS ALLEGED

First Cause of Action: Violation of Section 1 of the Sherman Act

34. Plaintiffs incorporate paragraphs 1 through 33.

35. Allegiance, Branch, and ProMedica are each a horizontal competitor of Hillsdale in the provision of healthcare services in south-central Michigan. Defendants' agreements are facially anticompetitive because they allocate territories for the marketing of competing healthcare services and limit competition among Defendants. The agreements eliminate a significant form of competition to attract patients.

36. The agreements constitute unreasonable restraints of trade that are *per se* illegal under Section 1 of the Sherman Act, 15 U.S.C. 1. No elaborate analysis is required to demonstrate the anticompetitive character of these agreements.

37. The agreements are also unreasonable restraints of trade that are unlawful under Section 1 of the Sherman Act, 15 U.S.C. 1, under an abbreviated or ''quick look'' rule of reason analysis. The principal tendency of the agreements is to restrain competition. The nature of the restraints is obvious, and the agreements lack legitimate procompetitive justifications. Even an observer with a rudimentary understanding of economics could therefore conclude that the agreements would have anticompetitive effects on patients, physicians, and employers, and harm the competitive process.

Second Cause of Action: Violation of MCL 445.772

38. Plaintiff State of Michigan incorporates paragraphs 1 through 37 above.

39. Defendants entered into unlawful agreements with each other that unreasonably restrain trade and commerce in violation of Section 2 of the Michigan Antitrust Reform Act, MCL 445.772.

REQUESTED RELIEF

The United States and the State of Michigan request that the Court:

(A) judge that Defendants' agreements limiting competition constitute illegal restraints of interstate trade in violation of Section 1 of the Sherman Act, 15 U.S.C. 1, and Section 2 of the Michigan Antitrust Reform Act, MCL 445.772;

(B) enjoin Defendants and their members, officers, agents, and employees from continuing or renewing in any manner the conduct alleged herein or from engaging in any other conduct, agreement, or other arrangement having the same effect as the alleged violations;

(C) enjoin each Defendant and its members, officers, agents, and employees from communicating with any other Defendant about any Defendant's marketing in its or the other Defendant's county, unless such communication is related to the joint provision of services, or unless the communication is part of normal due diligence relating to a merger, acquisition, joint venture, investment, or divestiture;

(D) require Defendants to institute a comprehensive antitrust compliance program to ensure that Defendants do not establish any similar agreements and that Defendants' members, officers, agents and employees are fully informed of the application of the antitrust laws

to hospital restrictions on competition; and

(E) award Plaintiffs their costs in this action, including attorneys' fees and investigation costs to the State of Michigan, and such other relief as may be just and proper.

Dated: June 25, 2015

Respectfully submitted,

FOR PLAINTIFF UNITED STATES OF AMERICA:

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UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN

UNITED STATES OF AMERICA and STATE OF MICHIGAN, *Plaintiffs,* v. HILLSDALE COMMUNITY HEALTH CENTER, W.A. FOOTE MEMORIAL HOSPITAL, D/B/A ALLEGIANCE HEALTH, COMMUNITY HEALTH CENTER OF BRANCH COUNTY, and PROMEDICA HEATLH SYSTEM, INC., *Defendants.*

Case No.: 2:15-cv-12311

Hon. Judith E. Levy

COMPETITIVE IMPACT STATEMENT

Plaintiff United States of America, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA'' or ''Tunney Act''), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. NATURE AND PURPOSE OF THE PROCEEDING

On June 25, 2015, the United States and the State of Michigan filed a civil antitrust Complaint alleging that Defendants Hillsdale Community Health Center (''Hillsdale''), W.A. Foote Memorial Hospital, d/b/a Allegiance Health (''Allegiance''), Community Health Center of Branch County (''Branch''), and ProMedica Health System, Inc. (''ProMedica'') violated Section 1 of the Sherman Act, 15 U.S.C. 1, and Section 2 of the Michigan Antitrust Reform Act, MCL 445.772. The Complaint alleges that Hillsdale agreed with its closest Michigan competitors to unlawfully allocate territories for the marketing of competing healthcare services and to limit competition between them. Specifically, according to the Complaint, Hillsdale entered into agreements with Allegiance, Branch, and ProMedica to limit marketing of competing healthcare services. The agreements eliminated a significant form of competition to attract patients and overall substantially diminished competition in south-central Michigan. Defendants' agreements to allocate territories for marketing are *per se* illegal under Section 1 of the Sherman Act, 15 U.S.C. 1, and Section 2 of the Michigan Antitrust Reform Act, MCL 445.772.

With the Complaint, the United States and the State of Michigan filed a Stipulation and proposed Final Judgment with respect to Hillsdale, Branch, and ProMedica (collectively ''Settling Defendants''). The proposed Final Judgment, as explained more fully below, enjoins Settling Defendants from (1) agreeing with any healthcare provider to prohibit or limit marketing or to allocate geographic markets or territories, and (2) communicating with any other Defendant about any Defendant's marketing in its or the other Defendant's county, subject to narrow exceptions.

The United States, the State of Michigan, and the Settling Defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA, unless the United States and the State of Michigan withdraw their consent. Entry of the proposed Final Judgment would terminate this action with respect to Settling Defendants, except that this Court would retain jurisdiction to construe, modify, and enforce the proposed Final Judgment and to punish violations thereof. The case against Allegiance will continue.

II. DESCRIPTION OF THE EVENTS GIVING RISE TO THE ALLEGED VIOLATIONS

A. Background on the Defendants and their Marketing Activities

Allegiance, Branch, Hillsdale, and ProMedica's Bixby and Herrick Hospitals are general acute-care hospitals in adjacent counties in south-central Michigan. Defendants are the only hospital or hospitals in their respective counties. Hillsdale directly competes with each of the other Defendants to provide many of the same hospital and physician services to patients.

An important tool that hospitals use to compete for patients is marketing aimed at informing patients, physicians, and employers about a hospital's quality and scope of services. Defendants' marketing includes advertisements through mailings and media, such as local newspapers, radio, television, and billboards. Allegiance's marketing efforts have also included the provision of free medical services, such as health screenings, physician seminars, and health fairs. Some Defendants also market to physicians through educational and relationship-building meetings that provide physicians with information about Defendants' quality and range of services. Allegiance also engages in these marketing meetings with employers.

B. Defendants' Unlawful Agreements to Limit Marketing

Allegiance, Branch, and ProMedica's Bixby and Herrick Hospitals are Hillsdale's closest Michigan competitors. Hillsdale orchestrated agreements with each to limit marketing of competing healthcare services. Defendants' senior executives created and enforced these agreements, which have lasted for many years.

1. Unlawful Agreement Between Hillsdale and Allegiance

Since at least 2009, Hillsdale and Allegiance have had an agreement that limits Allegiance's marketing for competing services in Hillsdale County. As Allegiance explained in a 2013 oncology marketing plan: ''[A]n agreement exists with the CEO of Hillsdale Community Health Center . . . to not conduct marketing activity in Hillsdale County.'' In compliance with this agreement, which Allegiance executives acknowledge in numerous documents, Allegiance has excluded Hillsdale County from marketing campaigns since at least 2009. Allegiance has on occasion apologized to Hillsdale for violating the agreement and assured Hillsdale that Allegiance would honor the previously agreed upon agreement going forward. And Allegiance has avoided giving free health benefits, such as physician seminars and health screenings, to residents of Hillsdale County because of the agreement. For example, Allegiance discouraged one of its newly employed physicians from giving a seminar relating to competing services in Hillsdale County. This unlawful agreement between Hillsdale and Allegiance has deprived Hillsdale County patients, physicians, and employers of information regarding their healthcare provider choices and of free health screenings and education.

1. Unlawful Agreement Between Hillsdale and ProMedica

Since at least 2012, Hillsdale and ProMedica have agreed to limit their marketing for competing services in one another's county. As one ProMedica communications specialist described: ''The agreement is that they stay our [sic] of our market and we stay out of theirs unless we decide to collaborate with them on a particular project.'' This agreement has restrained the hospitals' marketing in each other's county. For example, in June 2012, Hillsdale's CEO refused to allow ProMedica to market competing oncology services in Hillsdale County. This unlawful agreement between Hillsdale and ProMedica deprived patients, physicians, and employers of Hillsdale and Lenawee Counties of information regarding their healthcare provider choices.

2. Unlawful Agreement Between Hillsdale and Branch

Since at least 1999, Hillsdale and Branch have agreed to limit their marketing for competing services in one another's county. In the fall of 1999, Hillsdale's then-CEO and Branch's CEO reached an agreement whereby each hospital agreed not to market anything but new services in the other hospital's county. Branch's CEO testified recently in deposition that ''[t]here's a gentlemen's agreement not to market services other than new services.'' Branch has monitored Hillsdale's compliance with the agreement and directed its marketing employees to abide by the agreement. This unlawful agreement between Hillsdale and Branch deprived Hillsdale and Branch County patients, physicians, and employers of information regarding their healthcare provider choices.

3. Defendants' Marketing Agreements Are Per Se Illegal

Defendants' agreements have disrupted the competitive process and harmed patients, physicians, and employers. For instance, the agreements have deprived patients, physicians, and employers of information they otherwise would have had when making important healthcare decisions. Another impact of the agreement between Allegiance and Hillsdale was to deprive Hillsdale County patients of free medical services such as health screenings and physician seminars that they would have received but for the unlawful agreement. Moreover, Allegiance's agreement with Hillsdale denied Hillsdale County employers the opportunity to receive information and to develop relationships that could have allowed them to improve the quality of their employees' medical care.

Defendants' anticompetitive agreements are not reasonably necessary to further any procompetitive purpose. Each of the agreements among the Defendants allocates territories for marketing and constitutes a naked restraint of trade that is *per se* unlawful under Section 1 of the Sherman Act, 15 U.S.C. 1, and Section 2 of the Michigan Antitrust Reform Act, MCL 445.772. *See United States* v. *Topco Assocs., Inc.,* 405 U.S. 596, 607–08 (1972) (holding that naked market allocation agreements among horizontal competitors are plainly anticompetitive and illegal per se); *United States* v. *Cooperative Theatres of Ohio,* Inc., 845 F.2d 1367, 1371, 1373 (6th Cir. 1988) (holding that the defendants' agreement to not ''*actively* solicit[] each other's customers'' was ''undeniably a type of customer allocation scheme which courts have often condemned in the past as a *per se* violation of the Sherman Act''); *Blackburn* v. *Sweeney,* 53 F.3d 825, 828 (7th Cir. 1995) (holding that the ''[a]greement to limit advertising to different geographical regions was intended to be, and sufficiently approximates[,] an agreement to allocate markets so that the *per se* rule of illegality applies'').

III. EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The proposed Final Judgment will prevent the continuation and recurrence of the violations alleged in the Complaint and restore the competition restrained by Settling Defendants' anticompetitive agreements. Section X of the proposed Final Judgment provides that these provisions will expire five years after its entry.

A. Prohibited Conduct

Under Section IV of the proposed Final Judgment, Settling Defendants cannot agree with any healthcare provider to prohibit or limit marketing or to allocate geographic markets or territories. Settling Defendants are also prohibited from communicating with any other Defendant about any Defendant's marketing in its or the other Defendant's county, subject to narrow exceptions. There is an exception for communication about joint marketing if the communication is related to the joint provision of services, *i.e.,* any past, present, or future coordinated delivery of any healthcare services by two or more healthcare providers. There is another exception for communications about marketing that are part of customary due diligence relating to a merger, acquisition, joint venture, investment, or divestiture.

B. Compliance and Inspection

The proposed Final Judgment sets forth various provisions to ensure Defendants' compliance with the proposed Final Judgment. Section V of the proposed Final Judgment requires each Settling Defendant to appoint an Antitrust Compliance Officer within 30 days of the Final Judgment's entry. The Antitrust Compliance Officer must furnish copies of this Competitive Impact Statement, the Final Judgment, and a notice explaining the obligations of the Final Judgment to each Settling Defendant's officers, directors, and marketing managers at the level of director and above. The Antitrust Compliance Officer must also obtain from each recipient a certification that he or she has read and agreed to abide by the terms of the Final Judgment, and must maintain a record of all certifications received. Additionally, each Antitrust Compliance Officer shall annually brief each person receiving a copy of the Final Judgment and this Competitive Impact Statement on the meaning and requirements of the Final Judgment and the antitrust laws.

For a period of five years following the date of entry of the Final Judgment, the Settling Defendants separately must certify annually to the United States that they have complied with the provisions of the Final Judgment. Additionally, upon learning of any violation or potential violation of the terms and conditions of the Final Judgment, Settling Defendants must within thirty days file with the United States a statement describing the violation, and must promptly take action to terminate it.

To facilitate monitoring of the Settling Defendants' compliance with the Final Judgment, Section VII of the proposed Final Judgment requires each Settling Defendant to grant the United States or the State of Michigan access, upon reasonable notice, to Settling Defendant's records and documents relating to matters contained in the Final Judgment. Settling Defendants must also make their employees available for interviews or depositions and answer interrogatories and prepare written reports relating to matters contained in the Final Judgment upon request.

C. Settling Defendants' Cooperation

Section VI of the proposed Final Judgment provides that Settling Defendants must cooperate fully and truthfully with the United States and the State of Michigan in any investigation or litigation alleging that Defendants unlawfully agreed to restrict marketing in violation of Section 1 of the Sherman Act, as amended, 15 U.S.C. 1, or Section 2 of the Michigan Antitrust Reform Act, MCL 445.772. Such cooperation includes, but is not limited to, producing documents, making officers, directors, employees, and agents available for interviews, and testifying at trial and other judicial proceedings fully, truthfully, and under oath.

IV. REMEDIES AVAILABLE TO POTENTIAL 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 the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. 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 private lawsuit that may be brought against the Settling Defendants.

V. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENT

The United States, the State of Michigan, and the Settling Defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the U.S. Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of the United States will be filed with the Court. In addition, comments will be posted on the U.S. Department of Justice, Antitrust Division's internet Web site and, under certain circumstances, published in the **Federal Register**.

Written comments should be submitted to:

Peter J. Mucchetti
Chief, Litigation I Section
Antitrust Division
United States Department of Justice
450 Fifth Street, N.W., Suite 4100
Washington, DC 20530

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against the Settling Defendants. The United States is satisfied, however, that the relief proposed in the Final Judgment will prevent the recurrence of the violations alleged in the Complaint and ensure that patients, physicians, and employers benefit from competition between Defendants. Thus, the proposed Final Judgment would achieve all or substantially all of the relief the United States would have obtained through litigation, but avoids the time, expense, and uncertainty of a full trial on the merits.

VII. STANDARD OF REVIEW UNDER THE APPA FOR THE PROPOSED FINAL JUDGMENT

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. 16(e)(1). In making that determination, the court, in accordance with the statute as amended in 2004, is required to consider:

(A) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A) & (B).[1] In considering these statutory factors, the court's inquiry is necessarily a limited one as the government is entitled to ''broad discretion to settle with the Defendant within the reaches of the public interest.'' *United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1461 (D.C. Cir. 1995); *see generally United States* v. *U.S. Airways Group, Inc.,* 38 F. Supp. 3d 69, 75 (D.D.C. 2014) (noting the court has broad discretion of the adequacy of the relief at issue); *United States* v. *SBC Commc'ns, Inc.,* 489 F. Supp. 2d 1 (D.D.C. 2007) (describing the public-interest standard under the Tunney Act); *United States* v. *InBev N.V./S.A.,* No. 08–1965 (JR), 2009 U.S. Dist. LEXIS 84787, at *3 (D.D.C. Aug. 11, 2009) (noting that the court's review of a consent judgment is limited and only inquires ''into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanisms to enforce the final judgment are clear and manageable'').

Under the APPA, a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS, Inc.,* 858 F.2d 456, 462 (9th Cir. 1988) (quoting *United States* v. *Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)); *see also Microsoft,* 56 F.3d at 1460–62; *United States* v. *Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *3. One court explained:

> [t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of [e]nsuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''*within the reaches of the public interest.''* More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[2] In determining whether a proposed settlement is in the public interest, a district court ''must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17; *see also U.S. Airways,* 38 F. Supp. 3d at 75 (noting that a court should not reject the proposed remedies because it believes others are preferable); *Microsoft,* 56 F.3d at 1461 (noting the need for courts to be ''deferential to the government's predictions as to the effect of the proposed remedies''); *United States* v. *Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States' prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case).

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' '' *United States* v. *Am. Tel. & Tel. Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted); *see also U.S. Airways,* 38 F. Supp. 3d at 75 (noting that room must be made for the government to grant concessions in the negotiation process for settlements) (citing *Microsoft,* 56 F.3d at 1461); *United States* v. *Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States ''need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17.

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459; *see also U.S. Airways,* 38 F. Supp. 3d at 76 (noting that the court must simply determine whether there is a factual foundation for the government's decisions such that its conclusions regarding the proposed settlements are reasonable); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *20 (''the 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged''). Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. *Microsoft,* 56 F.3d at 1459–60. As a court confirmed in *SBC Communications,* courts ''cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power.'' *SBC Commc'ns,* 489 F. Supp. 2d at 15.

In its 2004 amendments, Congress made clear its intent to preserve the practical

[1] The 2004 amendments substituted ''shall'' for ''may'' in directing relevant factors for courts to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. *Compare* 15 U.S.C. 16(e) (2004), *with* 15 U.S.C. 16(e)(1) (2006); *see also SBC Commc'ns,* 489 F. Supp. 2d at 11 (concluding that the 2004 amendments ''effected minimal changes'' to Tunney Act review).

[2] *Cf. BNS,* 858 F.2d at 464 (holding that the court's ''ultimate authority under the [APPA] is limited to approving or disapproving the consent decree''); *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to ''look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass''). *See generally Microsoft,* 56 F.3d at 1461 (discussing whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest' '').

benefits of using consent decrees in antitrust enforcement, adding the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. 16(e)(2); *see also U.S. Airways,* 38 F. Supp. 3d at 76 (noting that a court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the Tunney Act). The language captured Congress's intent when it enacted the Tunney Act in 1974. Senator Tunney explained: ''The court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Sen. Tunney). Rather, the procedure for the public-interest determination is left to the discretion of the court, with the recognition that the court's ''scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings.'' *SBC Commc'ns,* 489 F. Supp. 2d at 11.[3] A court can make its public-interest determination based on the competitive impact statement and response to public comments alone. *U.S. Airways,* 38 F. Supp. 3d at 76.

VIII. DETERMINATIVE DOCUMENTS

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: June 25, 2015

Respectfully submitted,

FOR PLAINTIFF UNITED STATES OF AMERICA

Katrina Rouse
Trial Attorney
Antitrust Division
U.S. Department of Justice
Litigation I Section
450 Fifth Street, N.W., Suite 4100
Washington, D.C. 20530
Phone: (202) 305–7498
D.C. Bar #1013035
Email: katrina.rouse@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on June 25, 2015, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system and sent it via email to the following counsel at the email addresses below.

Counsel for Defendants Hillsdale Community Health Center and Community Health Center of Branch County:

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201 West Big Beaver Rd.
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Counsel for Defendant ProMedica Health System, Inc.:

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EXHIBIT A

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN

UNITED STATES OF AMERICA and STATE OF MICHIGAN, *Plaintiffs,* v. HILLSDALE COMMUNITY HEALTH CENTER, W.A. FOOTE MEMORIAL HOSPITAL, D/B/A ALLEGIANCE HEALTH, COMMUNITY HEALTH CENTER OF BRANCH COUNTY, and PROMEDICA HEALTH SYSTEM, INC., *Defendants.*

Case No.: 2:15–cv–12311

Hon. Judith E. Levy

[PROPOSED] FINAL JUDGMENT

WHEREAS, Plaintiffs, the United States of America and the State of Michigan, filed their joint Complaint on June 25, 2015, alleging that Defendants violated Section 1 of the Sherman Act, 15 U.S.C. 1, and Section 2 of the Michigan Antitrust Reform Act, MCL 445.772;

AND WHEREAS, Plaintiffs and Defendants Hillsdale Community Health Center, Community Health Center of Branch County, and ProMedica Health System, Inc. (collectively, ''Settling Defendants''), by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law;

AND WHEREAS, Plaintiffs require the Settling Defendants to agree to undertake certain actions and refrain from certain conduct for the purpose of remedying the anticompetitive effects alleged in the Complaint;

NOW THEREFORE, before any testimony is taken, without this Final Judgment constituting any evidence against or admission by Settling Defendants regarding any issue of fact or law, and upon consent of the parties to this action, it is ORDERED, ADJUDGED, AND DECREED:

I. JURISDICTION

This Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states a claim upon which relief may be granted against the Settling Defendants under Section 1 of the Sherman Act, 15 U.S.C. 1, and Section 2 of the Michigan Antitrust Reform Act, MCL 445.772.

II. DEFINITIONS

As used in this Final Judgment:

(A) ''Allegiance'' means Defendant W. A. Foote Memorial Hospital doing business as Allegiance Health, a corporation organized and existing under the laws of the State of Michigan with its headquarters in Jackson, Michigan, its (i) successors and assigns, (ii) controlled subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and (iii) their directors, officers, managers, agents, and employees.

(B) ''Agreement'' means any contract, arrangement, or understanding, formal or informal, oral or written, between two or more persons.

(C) ''Branch'' means Defendant Community Health Center of Branch County, a municipal health facility corporation formed under Public Act 230 of the Public Acts of 1987 (MCL 331.1101, *et. seq.*) with its headquarters in Coldwater, Michigan, its (i) successors and assigns, (ii) controlled subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and (iii) their directors, officers, managers, agents, and employees.

(D) ''Communicate'' means to discuss, disclose, transfer, disseminate, or exchange information or opinion, formally or informally, directly or indirectly, in any manner.

(E) ''Hillsdale'' means Defendant Hillsdale Community Health Center, a corporation organized and existing under the laws of the State of Michigan with its headquarters in Hillsdale, Michigan, its (i) successors and assigns, (ii) controlled subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and (iii) their directors, officers, managers, agents, and employees.

(F) ''Joint Provision of Services'' means any past, present, or future coordinated delivery of any healthcare services by two or more healthcare providers, including a clinical affiliation, joint venture, management agreement, accountable care organization, clinically integrated network, group purchasing organization, management services organization, or physician hospital organization.

(G) ''Marketing'' means any past, present, or future activities that are involved in making persons aware of the services or products of the hospital or of physicians employed or with privileges at the hospital, including advertising, communications, public relations, provider network development, outreach to employers or physicians, and promotions, such as free health screenings and education.

[3] *See United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the ''Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone''); *United States* v. *Mid-Am. Dairymen, Inc.,* No. 73–CV–681–W–1, 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980, *22 (W.D. Mo. 1977) (''Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.''); S. Rep. No. 93–298, at 6 (1973) (''Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.'').

(H) ''Marketing Manager'' means any company officer or employee at the level of director, or above, with responsibility for or oversight of Marketing.

(I) ''Person'' means any natural person, corporation, firm, company, sole proprietorship, partnership, joint venture, association, institute, governmental unit, or other legal entity.

(J) ''ProMedica'' means Defendant ProMedica Health System, Inc., a corporation organized and existing under the laws of the State of Ohio with its headquarters in Toledo, Ohio, its (i) successors and assigns, (ii) controlled subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, including Emma L. Bixby Medical Center, Inc. (d/b/a ProMedica Bixby Hospital), a Michigan nonprofit corporation located in Adrian, Michigan, and Herrick Hospital, Inc. (d/b/a ProMedica Herrick Hospital), a Michigan nonprofit corporation located in Tecumseh, Michigan, but excluding Paramount Health Care, and (iii) their directors, officers, managers, agents, and employees.

(K) ''Provider'' means any physician or physician group and any inpatient or outpatient medical facility including hospitals, ambulatory surgical centers, urgent care facilities, and nursing facilities.

(L) ''Relevant Area'' means Branch, Hillsdale, Jackson, and Lenawee Counties in the State of Michigan.

III. APPLICABILITY

This Final Judgment applies to the Settling Defendants, and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV. PROHIBITED CONDUCT

(A) Each Settling Defendant shall not attempt to enter into, enter into, maintain, or enforce any Agreement with any other Provider that:

(1) Prohibits or limits Marketing; or

(2) allocates any geographic market or territory between or among the Settling Defendant and any other Provider.

(B) Each Settling Defendant shall not Communicate with any other Defendant about any Defendant's Marketing in its or the other Defendant's county, except each Settling Defendant may:

(1) Communicate with any other Defendant about joint Marketing if the communication is related to the Joint Provision of Services; or

(2) communicate with any other Defendant about Marketing if the communication is part of customary due diligence relating to a merger, acquisition, joint venture, investment, or divestiture.

V. REQUIRED CONDUCT

(A) Within thirty days of entry of this Final Judgment, each Settling Defendant shall appoint an Antitrust Compliance Officer and identify to Plaintiffs his or her name, business address, and telephone number.

(B) Each Antitrust Compliance Officer shall:

(1) Furnish a copy of this Final Judgment, the Competitive Impact Statement, and a cover letter that is identical in content to Exhibit 1 within sixty days of entry of the Final Judgment to each Settling Defendant's officers, directors, and Marketing Managers, and to any person who succeeds to any such position, within thirty days of that succession;

(2) annually brief each person designated in Section V(B)(1) on the meaning and requirements of this Final Judgment and the antitrust laws;

(3) obtain from each person designated in Section V(B)(1), within sixty days of that person's receipt of the Final Judgment, a certification that he or she (i) has read and, to the best of his or her ability, understands and agrees to abide by the terms of this Final Judgment; (ii) is not aware of any violation of the Final Judgment that has not already been reported to the Settling Defendant; and (iii) understands that any person's failure to comply with this Final Judgment may result in an enforcement action for civil or criminal contempt of court against each Settling Defendant and/or any person who violates this Final Judgment;

(4) maintain a record of certifications received pursuant to this Section; and

(5) annually communicate to the Settling Defendant's employees that they may disclose to the Antitrust Compliance Officer, without reprisal, information concerning any potential violation of this Final Judgment or the antitrust laws.

(C) Each Settling Defendant shall:

(1) Upon learning of any violation or potential violation of any of the terms and conditions contained in this Final Judgment, promptly take appropriate action to terminate or modify the activity so as to comply with this Final Judgment and maintain all documents related to any violation or potential violation of this Final Judgment;

(2) upon learning of any violation or potential violation of any of the terms and conditions contained in this Final Judgment, file with the United States and the State of Michigan a statement describing any violation or potential violation within thirty days of its becoming known. Descriptions of violations or potential violations of this Final Judgment shall include, to the extent practicable, a description of any communications constituting the violation or potential violation, including the date and place of the communication, the persons involved, and the subject matter of the communication; and

(3) certify to the United States and the State of Michigan annually on the anniversary date of the entry of this Final Judgment that the Settling Defendant has complied with the provisions of this Final Judgment.

VI. SETTLING DEFENDANTS' COOPERATION

Each Settling Defendant shall cooperate fully and truthfully with the United States and the State of Michigan in any investigation or litigation alleging that Defendants unlawfully agreed to restrict Marketing in the Relevant Area in violation of Section 1 of the Sherman Act, as amended, 15 U.S.C. 1, or Section 2 of the Michigan Antitrust Reform Act, MCL 445.772. Each Settling Defendant shall use its best efforts to ensure that all officers, directors, employees, and agents also fully and promptly cooperate with the United States and the State of Michigan. The full, truthful, and continuing cooperation of each Settling Defendant will include, but not be limited to:

(A) Producing all documents and other materials, wherever located, not protected under the attorney-client privilege or the work-product doctrine, in the possession, custody, or control of that Settling Defendant, that are relevant to the unlawful agreements among Defendants to restrict Marketing in the Relevant Area in violation of Section 1 of the Sherman Act, as amended, 15 U.S.C. 1, or Section 2 of the Michigan Antitrust Reform Act, MCL 445.772, alleged in the Complaint, upon the request of the United States or the State of Michigan;

(B) making available for interview any officers, directors, employees, and agents if so requested by the United States or the State of Michigan; and

(C) testifying at trial and other judicial proceedings fully, truthfully, and under oath, subject to the penalties of perjury (18 U.S.C. 1621), making a false statement or declaration in court proceedings (18 U.S.C. 1623), contempt (18 U.S.C. 401–402), and obstruction of justice (18 U.S.C. 1503, *et seq.*), or the equivalent Michigan provisions, when called upon to do so by the United States or the State of Michigan;

(D) provided however, that the obligations of each Settling Defendant to cooperate fully with the United States and the State of Michigan as described in this Section shall cease upon the sooner of (i) when all Defendants settle all claims in this matter and all settlements have been entered by this Court, or (ii) at the conclusion of all investigations and litigation alleging the non-Settling Defendant unlawfully agreed to restrict Marketing in the Relevant Area in violation of Section 1 of the Sherman Act, as amended, 15 U.S.C. 1, or Section 2 of the Michigan Antitrust Reform Act, MCL 445.772, including exhaustion of all appeals or expiration of time for all appeals of any Court ruling in this matter.

VII. COMPLIANCE INSPECTION

(A) For the purposes of determining or securing compliance with this Final Judgment, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time authorized representatives of the United States Department of Justice or the Office of the Michigan Attorney General, including consultants and other retained persons, shall, upon the written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division or of the Office of the Michigan Attorney General, and on reasonable notice to Settling Defendants, be permitted:

(1) Access during Settling Defendants' office hours to inspect and copy, or at the option of the United States or the State of Michigan, to require Settling Defendants to provide hard copy or electronic copies of, all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of Settling Defendants, relating to any

matters contained in this Final Judgment; and

(2) to interview, either informally or on the record, Settling Defendants' officers, directors, employees, or agents, who may have individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by Settling Defendants.

(B) Upon the written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division or of the Office of the Michigan Attorney General, Settling Defendants shall, subject to any legally recognized privilege, submit written reports or response to written interrogatories, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

(C) No information or documents obtained by the means provided in this section shall be divulged by the United States or the State of Michigan to any person other than an authorized representative of the executive branch of the United States or the State of Michigan, except in the course of legal proceedings to which the United States or the State of Michigan is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(D) If at the time information or documents are furnished by Settling Defendants to the United States or the State of Michigan, Settling Defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and Settling Defendants mark each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure,'' then the United States and the State of Michigan shall give Settling Defendants ten calendar days notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

VIII. INVESTIGATION FEES AND COSTS

Each Settling Defendant shall pay to the State of Michigan the sum of $5,000.00 to partially cover the attorney fees and costs of investigation.

IX. RETENTION OF JURISDICTION

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

X. EXPIRATION OF FINAL JUDGMENT

Unless this Court grants an extension, this Final Judgment shall expire five years from the date of its entry.

XI. NOTICE

For purposes of this Final Judgment, any notice or other communication required to be filed with or provided to the United States or the State of Michigan shall be sent to the persons at the addresses set forth below (or such other address as the United States or the State of Michigan may specify in writing to any Settling Defendant):

Chief
Litigation I Section
U.S. Department of Justice
Antitrust Division
450 Fifth Street, Suite 4100
Washington, DC 20530

Division Chief
Corporate Oversight Division
Michigan Department of Attorney General
525 West Ottawa Street
P.O. Box 30755
Lansing, MI 48909

XII. PUBLIC INTEREST DETERMINATION

The parties, as required, have complied with the procedures of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon, and the United States' responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

Dated: _____

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. § 16

United States District Judge

Exhibit 1

[Letterhead of Settling Defendant]

[Name and Address of Antitrust Compliance Officer]

Dear [XX]:

I am providing you this notice to make sure you are aware of a court order recently entered by a federal judge in _____, Michigan. This court order applies to our institution and all of its employees, including you, so it is important that you understand the obligations it imposes on us. [CEO Name] has asked me to let each of you know that s/he expects you to take these obligations seriously and abide by them.

In a nutshell, the order prohibits us from agreeing with other healthcare providers, including hospitals and physicians, to limit marketing or to divide any geographic market or territory between healthcare providers. This means you cannot give any assurance to another healthcare provider that [Settling Defendant] will refrain from marketing our services, and you cannot ask for any assurance from them that they will refrain from marketing. The court order also prohibits communicating with [list other three defendants], or their employees about our marketing plans or about their marketing plans. There are limited exceptions to this restriction on communications, such as discussing joint projects, but you should check with me before relying on those exceptions.

A copy of the court order is attached. Please read it carefully and familiarize yourself with its terms. The order, rather than the above description, is controlling. If you have any questions about the order or how it affects your activities, please contact me. Thank you for your cooperation.

Sincerely,

[Settling Defendant's Antitrust Compliance Officer]

[FR Doc. 2015–16585 Filed 7–6–15; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

[OMB Number 1105–0091]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Assumption of Concurrent Federal Criminal Jurisdiction In Certain Areas of Indian Country

AGENCY: Office of Tribal Justice, Department of Justice.

ACTION: 30-day notice.

SUMMARY: The Department of Justice, Office of Tribal Justice, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the FR 80 23287, on April 27, 2015, allowing for a 60 day comment period.

DATES: Comments are encouraged and will be accepted for an additional 30 days until August 6, 2015.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Mr. Tracy Toulou, Director, Office of Tribal Justice, Department of Justice, 950 Pennsylvania Avenue NW, Room 2310, Washington, DC 20530. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20530 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary