

STATE OF MAINE
KENNEBEC, SS.

REC'D & FILED

Nancy A. Desjardin

MAY - 5 2000

Clerk of Courts
Kennebec County

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV00-87

STATE OF MAINE,

Plaintiff

v.

BRIDGTON HOSPITAL,
formerly North Cumberland Memorial
Hospital, a Maine nonprofit
corporation with a registered office in
North Bridgton, Maine; *et al.*

Defendants

CONSENT DECREE

WHEREAS Defendant Bridgton Hospital denies all allegations of unlawful
conduct, but nevertheless desires to resolve this disputed matter without incurring the
costs and uncertainties of litigation; and

WHEREAS Plaintiff, the State of Maine, is filing the Complaint herein
concurrently with this Decree; and

WHEREAS Plaintiff and Defendant Bridgton Hospital agree to the entry of this
Decree without trial or adjudication of any issue of fact or law raised by the Complaint
and without any admission by Defendant with respect to such issues:

NOW, THEREFORE, before the taking of any testimony and without trial or
adjudication of any issue of fact or law and upon consent of the parties hereto, it is hereby

ORDERED AND DECREED as follows:

I. JURISDICTION

This Court has jurisdiction of the subject matter of this action. The Complaint states a claim upon which relief may be granted against Defendant Bridgton Hospital under 5 M.R.S.A. §§ 207, 209; and under 10 M.R.S.A. § 1101.

II. RELIEF

1. Defendant Bridgton Hospital, its officers, agents, servants, employees, and other persons in active concert or participation with them are hereby permanently enjoined

(a) from entering into any contract, combination or conspiracy in restraint of trade or commerce in the State of Maine;

(b) from entering into or giving effect to any agreement to allocate or divide territories, customers or advertising markets located partly or wholly within the State of Maine with any competitor.

2. Defendant Bridgton Hospital shall pay to the Attorney General the sum of \$10,000 to be applied to enforcement purposes pursuant to 5 M.R.S.A. § 209.

3. Defendant Bridgton Hospital shall pay to the Attorney General a portion of his costs of investigation in this matter and of the costs of this suit, including an attorney's fee, pursuant to 5 M.R.S.A. § 209, in the amount of \$5,000.

4. Within six months after the entry of this Consent Decree and annually for the succeeding three years, Bridgton Hospital shall conduct an antitrust compliance program for all employees in senior management positions, including without limitation its Chief Executive Officer, Chief Financial Officer, Medical Director and Director of

Nursing. Bridgton Hospital shall inform the Attorney General in writing, within 30 days following each such program, concerning its compliance with this provision.

III. RETENTION OF JURISDICTION

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to the Decree to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or implementation of the Decree, or for the modification of or relief from any of the provisions hereof, and for the enforcement of compliance herewith.

Dated: 4/27/00

**CONSENTED TO ON BEHALF OF
THE STATE OF MAINE:**



FRANCIS ACKERMAN
Chief, Public Protection Unit
Six State House Station
Augusta, ME 04333
(207) 626 8800
Bar No. 2125

Dated:

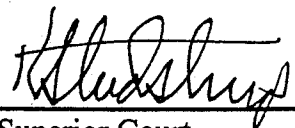
**CONSENTED TO ON BEHALF OF
BRIDGTON HOSPITAL:**



MICHAEL R. POULIN, ESQ.
Skelton, Taintor & Abbott
95 Main Street
PO Box 3200
Auburn, ME 04212-3200
(207) 784-3200
Bar No. 2578

It is hereby **ORDERED AND DECREED** as set forth above; judgment shall enter in accordance with the above terms, which are incorporated by reference herein.

Dated: 5/9/00



Justice, Superior Court

**Agreement Between MaineHealth and Office of Attorney General
Regarding Advertising of Hospital Services**

This is an Agreement of January 14, 2002, between MaineHealth, a Maine non-profit corporation based in Portland, Maine, and the Office of Attorney General of the State of Maine.

In consideration of the mutual covenants contained herein, it is hereby agreed as follows:

1. Covenant. MaineHealth covenants, for itself and its current hospital members, and while acting on behalf of its current or future members, that it will not enter into or give effect to any agreement with any non-member hospital, or with persons acting on behalf of a non-member hospital, to refrain from or to reduce or curtail advertising of hospital services in any medium in any market located partly or wholly within the State of Maine.
2. Proviso. Nothing in Paragraph 1 is intended to obligate MaineHealth or its member hospitals to advertise in the service area of other community hospitals, or is intended to prevent MaineHealth or its hospital members from electing not to advertise, or canceling any advertising, if MaineHealth or its member is not so acting pursuant to an agreement with a non-member hospital or with persons acting on behalf of a non-member hospital. Nothing in Paragraph 1 of this Agreement is intended to prohibit MaineHealth, or its tertiary-care hospital member Maine Medical Center, from unilaterally adopting and implementing a policy to assist outlying local hospitals in their efforts to provide hospital services to local residents.
3. Enforcement. Paragraph 1 of this Agreement is specifically enforceable in Superior Court.
4. Dismissal. MaineHealth, for itself and its hospital members, and the Office of Attorney General, on behalf of State of Maine, will execute and file a stipulation of dismissal, with prejudice pursuant to Rule 41(a)(1)(ii) of the Maine Rules of Civil Procedure, in Dkt. No. CV 00-548, now pending in the Superior Court of the State of Maine, Cumberland County.
5. Scope. For purposes of this agreement, a MaineHealth hospital member is a hospital controlled by MaineHealth, through direct corporate control or through corporate control of the parent organization of the hospital. MaineHealth hospital members as of the date of this Agreement as defined herein are the following: Maine Medical Center, Spring Harbor Hospital; Miles Memorial Hospital; St. Andrews Hospital, and Stephens Memorial Hospital.
6. Related Agreement. MaineHealth and the Office of Attorney General are also entering into an Agreement for Provision of Information Regarding MaineHealth

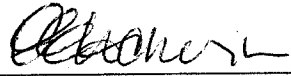
Affiliates, Joint Ventures, and Other Agreements and Review by the Office of Attorney General.

IN WITNESS WHEREOF, the parties have made this Agreement as of the day and year first above written.

State of Maine

Office of Attorney General

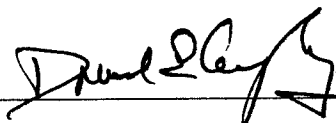
Date: January 14, 2002

By  _____

Francis Ackerman
Chief, Public Protection Division
Office of Attorney General

MaineHealth, for itself and its hospital members (including Maine Medical Center)

Date: January 14, 2002

By  _____

Donald E. Quigley
Vice President for Legal Affairs
MaineHealth

**Agreement for Provision of Information Regarding MaineHealth Affiliates,
Joint Ventures, and Other Agreements,
And Review by the Office of Attorney General**

This is an Agreement of January 14, 2002, between MaineHealth, a Maine non-profit corporation based in Portland, Maine, and the Office of Attorney General of the State of Maine, and is executed contemporaneously with an Agreement entitled Agreement Between MaineHealth and Office of Attorney General Regarding Advertising of Hospital Services.

In consideration of the covenants and promises expressed herein, and in the related Agreement the parties agree as follows:

A. Submission of Information to Office of Attorney General

1. Information Regarding Agreements in Force as of January 1, 2002.
Beginning 45 days from the date of this Agreement, MaineHealth will provide the Office of Attorney General with documentary and other information comprising and fully describing the following agreements to which MaineHealth or a MaineHealth member listed in Appendix A is a party:
 - a. Affiliation Agreements in force as of January 1, 2002
 - b. Agreements in force as of January 1, 2002 with Affiliates pursuant to Affiliation Agreements
 - c. Agreements in force as of January 1, 2002 with other non-member hospitals or home health organizations for the purpose, or with the foreseeable effect, of avoiding duplication of hospital or home health services
 - d. All such submissions shall be completed within 90 days of the date of this Agreement. The Attorney General may request production of further relevant documentation relating to any such affiliation agreements or other agreements, which shall be provided within 30 days of any such request.

2. Information Regarding Future Agreements.
 - a. Not later than 30 days prior to entering into any of the following agreements, MaineHealth will provide the Office of Attorney General with documentary and other information comprising and describing the following Agreements MaineHealth or a MaineHealth member listed in Appendix A is a party:
 - i. New Affiliation Agreement
 - ii. New Joint Venture Agreement

- iii. New Agreements for the purpose or with the foreseeable effect of avoiding duplication of hospital or home health or other services provided by MaineHealth or its members listed in Appendix A
 - iv. New Agreements pursuant to an Affiliation Agreement, except that if the Agreement is not intended to be and will not be implemented until 30 days following submission for Attorney General review, and may be cancelled without penalty by MaineHealth or its members, the Agreement may be submitted for Attorney General review up to 30 days following its execution.
- b. Nothing in this Agreement requires MaineHealth to furnish such information specified in Section A for joint ventures or for agreements with entities listed in Appendix B, or renewals of any agreements that had been previously been furnished to the Office of Attorney General. Nothing in the Agreement limits the exercise of the Attorney General's statutory authority to obtain such information for joint ventures in existence as of December 31, 2001.

B. Office of Attorney General Review. Within 60 days of the completion of a submission described in Paragraph A (1) for any Agreement, or within such reasonable time as the parties may agree upon in view of the volume of such submissions, and within 30 days of the completion of a submission described in Paragraph A (2) for any Agreement, the Office of Attorney General will notify MaineHealth of the results of its review of such Agreement. Specifically, the Office will advise MaineHealth as follows:

- 1. The Office of Attorney General has no present objection to the Agreement
- 2. The Office of Attorney General has an objection to the Agreement which is or may be curable with modifications or conditions
- 3. The Office of Attorney General has an objection to the Agreement, which is not curable with modifications or conditions

C. MaineHealth Response to Office of Attorney General Review.

- 1. If the Office advises MaineHealth pursuant to ¶ B(2) or ¶ B(3) that it objects to an Agreement, then within 30 days thereof, MaineHealth may, at its option:
 - a. Terminate the Agreement, and so notify the Office of Attorney General.
 - b. Modify the Agreement or attach conditions to the Agreement, in a manner that, after discussion between MaineHealth, the parties to

the Agreement, and the Office of Attorney General, is mutually agreeable to the Office of Attorney General and MaineHealth

- c. File a request for a certificate of public advantage for the Agreement, or Agreement as modified, pursuant to the Hospital Co-operation Act, 22 M.R.S.A. § 1881 et seq.
 - d. If after efforts made in good faith to resolve its differences with the Office of the Attorney General, MaineHealth concludes (i) that it does not agree with the Office of the Attorney General's objection, or with the modifications or conditions specified by the Attorney General; and (ii) that it does not believe that the conduct subject to review constitutes an antitrust violation of any kind, MaineHealth may notify the Office of the Attorney General that it intends neither to terminate, modify nor file a request for a certificate of public advantage with respect to the Agreement.
2. If MaineHealth chooses the option specified in ¶ C(1)(a), ¶ C(1)(b), or ¶ C(1)(c), the Office of Attorney General shall not file any action challenging the lawfulness of such an Agreement under 10 M.R.S.A. § 1101 et seq or 5 M.R.S.A. § 207 et seq.

D. Enforcement. The Covenants in this Agreement are enforceable through specific performance in Superior Court. Nothing herein shall be construed to bar the Attorney General from taking, in his sole discretion, any prosecutorial action under the antitrust laws he may deem appropriate with respect to any Agreement as to which MaineHealth has declined or failed to submit written information or documentation as provided in paragraph A above, or with respect to any Agreement as to which MaineHealth has informed the Attorney General that it will neither terminate, modify the Agreement nor file a request for a certificate of public advantage with respect thereto; or with respect to any joint venture currently in existence, or any other agreement which is not within the scope of this Agreement.

E. Expense for Review. To defray the Office's expenses in reviewing the Agreements hereunder, MaineHealth will pay \$15,000 to the Office of Attorney General. The Attorney General and MaineHealth jointly acknowledge the importance of education in the area of health care antitrust law. MaineHealth will deposit an additional \$10,000 to a special account created by the Attorney General. This account will be specifically restricted in its use to the funding of conference(s) sponsored by the Office of the Attorney General to educate providers and other stakeholders concerning antitrust law and policy.

F. Definitions. For purposes of this Agreement, the following terms shall have the following meanings:

1. **Affiliate Agreement.** A written agreement between MaineHealth, for itself or on behalf of one or more of its hospital members, with one or more other non-member hospitals or corporate parent of a non-member hospital,

which expresses the parties' agreement to explore opportunities for cooperation or collaboration in the provision of health care services, or through which the parties agree that they may be described as affiliates in materials distributed to the consuming public or press. The Affiliate agreements currently in force are between MaineHealth and each of the following: MaineGeneral, Mid Coast Health Services, Southern Maine Medical Center and Sisters of Charity Health System.

2. Agreements Pursuant to Affiliation Agreements. The phrase "agreement ... pursuant to an affiliation agreement", as used herein, means any written document comprising an agreement, understanding, arrangement, or cooperative project entered into between MaineHealth or any of its members with any affiliated organization, or any of its members or subsidiaries.
3. Agreement for the Purpose or with the Foreseeable Effect of Avoiding Duplication of Hospital Services. A written agreement between MaineHealth or any of its hospital members, and any non-member hospital located in Southern Maine, or non-member hospital located anywhere in Maine and having at least 200 hospital beds, if the agreement has as its purpose or foreseeable effect to avoid duplication of hospital services.
4. Agreement for the Purpose or with the Foreseeable Effect of Avoiding the Duplication of Home Health Services. A written agreement concerning the provision of home health care services between MaineHealth or any of its home health care-providing members, and any home health care service entity located in Southern Maine, if the agreement has as its purpose or foreseeable effect to avoid duplication of home health care services.
5. Agreement for the Purpose or with the Foreseeable Effect of Avoiding Duplication of Other Services. A written agreement concerning the provision of health care services other than educational or laboratory services; provided further that such agreements shall not include agreements or renewal of prior agreements relating solely to the purchase by MaineHealth or its hospital members of physician services to deliver or support hospital services.
6. Southern Maine. The counties of York, Cumberland, Oxford, Sagadahoc, Lincoln, Kennebec, Knox, and Androscoggin.
7. Joint Venture. A business entity established jointly by MaineHealth or a hospital member of MaineHealth, and one or more other non-member hospitals or corporate parent or affiliate of a non-member hospital, for the joint provision of one or more health services, in which MaineHealth or a hospital member of MaineHealth owns at least 20% of the equity, if organized as a for-profit entity, or is a corporate member and has at least 20% of the governing power, if organized as a non-profit entity.

8. Hospital services. Any hospital-provided program, or grouping of clinical services or procedures recognized as a diagnostic-related group under the Medicare reimbursement system. Hospital services include physician services provided in a hospital setting, except as excluded by the provisos in Section F(5).

9. MaineHealth members. The entities listed in Appendix A.

G. Term. This Agreement expires on December 31, 2004.

IN WITNESS WHEREOF, the parties have made this Agreement as of the day and year first above written.

State of Maine

Office of Attorney General

Date: January 14, 2002

By

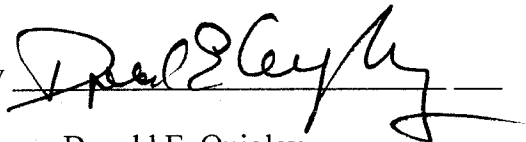


Francis Ackerman
Chief, Public Protection Division
Office of Attorney General

MaineHealth, for itself and its
members, including Maine Medical Center

Date: January 14, 2002

By



Donald E. Quigley
Vice President for Legal Affairs
MaineHealth

Appendix A
Entities Furnishing Information Pursuant to
Agreement for Provision of Information Regarding MaineHealth Affiliates,
Joint Ventures, and Other Agreements,
And Review by the Office of Attorney General
January 14, 2002

MaineHealth
Maine Medical Center
Spring Harbor Hospital
Spring Harbor Counseling
Miles Health Care
St Andrews Hospital
Western Maine Health
Community Health Services Group

Maine Medical Center
MMC Medical Services Corp.
Maine Hospitalist Services, Inc.

Miles Health Care
Miles Memorial Hospital
Cove's Edge, Inc.
Miles Medical Group

St. Andrews
St. Andrews Hospital

Western Maine Health
Stephens Memorial Hospital Association
Western Maine Multi-Medical Specialists
Western Maine Nursing Home, Inc.

Community Health Services Group
Community Health Services, Inc.
Personal Health Services, Inc.

Appendix B
Entities Not Furnishing Information Pursuant to
Agreement for Provision of Information Regarding MaineHealth Affiliates,
Joint Ventures, and Other Agreements,
And Review by the Office of Attorney General
January 14, 2002

NorDx
Practice Partners
Synernet
Maine PHO
Intellicare
Occupational Health and Rehabilitation Services
MainePartners
MMC PHO
New England Rehabilitation Hospital
Maine Heart Center
Maine Cancer Physicians Organization
Management for Home Care, Inc.