

consistent with Commission practice: when an individual is just an employee of the organizational respondent (as opposed to an owner of the organization or someone who is shown to control the organization's decisions), the Commission has rarely named the individual as a separate respondent; it has instead simply provided that the order will apply to the directors of the organizational respondent, its officers, and employees. Despite my doubts about whether liability based on the two species of conduct discussed above could be found, I found that there was "reason to believe" that Boulder Valley could be fenced-in in this fashion, and I voted for the decree.<sup>1</sup> One of the factors I considered, however, was that Ms. Higgins was not joined as a respondent.

Thereafter, it is undisputed that the following events occurred. First, Ms. Higgins denounced the consent decree in the press, asserting, among other things, that Boulder Valley had agreed to the consent decree only to avoid the substantial expense that litigation would entail.<sup>2</sup> Second, in response to the notice for public comment on Boulder Valley's proposed consent, Anthem Blue Cross Blue Shield complained that "the terms of the Consent Order may be interpreted to allow individuals associated with . . . BVIPA" to continue to attempt to facilitate collusive pricing.<sup>3</sup> Third, following those complaints and conversations with Anthem, staff notified Ms. Higgins that it was evaluating whether to add her to the *Boulder Valley* complaint or name her separately. Fourth, Ms. Higgins then separately met with the Commissioners (with the exception of the undersigned) in an effort to persuade them not to pursue her individually. Fifth, following those meetings, staff offered Ms. Higgins a consent decree that restricts Ms. Higgins's ability to participate in a pure "messenger system" in obtaining rates for those physicians that Boulder Valley represents. Sixth, Ms. Higgins rejected that consent decree, but rather than litigate, the Commission has since

agreed to a consent decree that (unlike the Commission's consent decree with Boulder Valley) (1) restricts Ms. Higgins to a limited messenger model for one year and (2) prevents Ms. Higgins from negotiating with any payor on behalf of any physician that participates in the BVIPA for two years.

Under these circumstances, I cannot vote in support of the consent decree against Ms. Higgins. First, I do not believe that the Commission has adduced evidence that warrants switching its stance from not naming Ms. Higgins at all to requiring her to enter into a consent decree that restricts her ability to participate in a pure "messenger system." There is a factual dispute as to whether when Ms. Higgins made her post-consent statements to Anthem, Ms. Higgins understood that she (or Boulder Valley) was subject to the binding consent decree in *Boulder Valley*, which had not yet been made final. I do not believe that such disputed facts supply a sufficient basis for the Commission to now proceed against Ms. Higgins separately and require that she engage in more restrictive conduct as a condition of settlement.

Second, in my view, the Commission's decision today is unnecessarily punitive: Ms. Higgins cannot possibly do her job to the fullest extent for Boulder Valley if she is limited in her conduct as described. Moreover, I am gravely concerned that the Commission's abrupt decision to change its tune can be viewed as retaliation for Ms. Higgins's decision to exercise her First Amendment rights when she publicly criticized the Commission's initial decision against Boulder Valley and for her ensuing decision to meet individual Commissioners in an effort to persuade them not to pursue her separately.

Third, I believe that by separately naming Ms. Higgins, the Commission has reneged on its deal. Such actions will inevitably undermine the Commission's ability to effectively negotiate consent decrees in the future.

I greatly regret this chain of events, and I hope that it does not happen again.

[FR Doc. 2010-4045 Filed 2-25-10; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS-0937-0025]

### Agency Information Collection Request; 60-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

### Agency Information Collection Request; 60-Day Public Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed information collection request for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, e-mail your request, including your address, phone number, OMB number, and OS document identifier, to [Sherette.funncoleman@hhs.gov](mailto:Sherette.funncoleman@hhs.gov), or call the Reports Clearance Office on (202) 690-6162. Written comments and recommendations for the proposed information collections must be directed to the OS Paperwork Clearance Officer at the above e-mail address within 60 days.

*Proposed Project:* Application for Appointment as a Commissioned Officer in the United States Public Health Service Commissioned Corps, OMB No. 0937-0025 Revision, Office of Commissioned Corps Force Management, Office of Public Health and Science.

*Abstract:* Pursuant to the Paperwork Reduction Act of 1995, the Office of Commissioned Corps Force Management (OCCFM), Office of Public Health and Science (OPHS), requests that the Office of Management and Budget (OMB) approve form PHS-50, "Application for Appointment as a Commissioned Officer in the United States Public Health Service Commissioned Corps," (OMB No. 0937-0025) and form PHS-1813, "Reference Request for Applicants to the United States Public Health Service Commissioned Corps" (OMB No. 0937-0025).

The principal purpose for collecting the information is to permit HHS to determine eligibility for appointment of applicants into the Commissioned Corps

<sup>1</sup> Complaint, *In the Matter of Boulder Valley Individual Practice Assoc.*, FTC File No. 051-0252 (Dec. 24, 2008), available at (<http://www.ftc.gov/os/caselist/0510252/081224bouldercompt.pdf>).

<sup>2</sup> See, e.g., John Aguilar, *Doctors Settle with FTC; Boulder County Physicians' Group: Feds Wrong with price-fixing claims*, DAILY CAMERA, Dec. 30, 2008, at A1; Greg Blesch, *FTC's Not Done Yet; Calif., Colo. Doc partnerships latest to be scrutinized*, 39 MODERN HEALTHCARE 10 (Jan. 5, 2009).

<sup>3</sup> Comment submitted by Wellpoint, Inc., *In re Boulder Valley Independent Practice Assoc.*, FTC File No. 051-0252 (Jan. 22, 2009), available at (<http://www.ftc.gov/os/comments/bouldervalley%20ipa/539810-00002.pdf>).

of the U.S. Public Health Service (Corps). The application packet pertains

only to individual health professionals who wish to apply for appointment in

the Corps. This is a request for a 3-year approval.

ESTIMATED ANNUALIZED BURDEN TABLE

Forms (if necessary)	Type of respondent	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
PHS-50 .....	Applicant to Corps .....	2,500	1	1	2500
PHS-1813 .....	Reference for Applicant .....	10,000	1	15/60	2500
Total .....	.....	12,500	1	.....	5000

**Seleda Perryman,**

*Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.*

[FR Doc. 2010-3981 Filed 2-25-10; 8:45 am]

**BILLING CODE 4150-28-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

[Document Identifier: OS-0990-; 30-day notice]

**Agency Information Collection Request; 30-Day Public Comment Request**

**AGENCY:** Office of the Secretary, HHS.

**Agency Information Collection Request; 30-Day Public Comment Request**

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this

collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, e-mail your request, including your address, phone number, OMB number, and OS document identifier, to *Sherette.funncoleman@hhs.gov*, or call the Reports Clearance Office on (202) 690-5683. Send written comments and recommendations for the proposed information collections within 30 days of this notice directly to the OS OMB Desk Officer; faxed to OMB at 202-395-5806.

*Proposed Project:* Evaluation of the Parents Speak Up National Campaign

(PSUNC); Focus Groups with Adolescents. OMB No. 0990-NEW—Office of the Secretary/Office of Public Health and Science/Office Adolescent Pregnancy Programs.

*Abstract:* The data collection will take place once, over a three-day period, in early 2010. An estimated 2000 adults will be screened to identify parents who are willing for their child to participate in the study and whose child is eligible. Screening will take an estimated 3 minutes, on average. Study participants will total 160 adolescents ages 13-15. Participation in the study will take an estimated 2 hours on average; including time spent responding to a mini-questionnaire and participating in a bulletin board focus group. Participants will self-administer the mini-questionnaire at home on personal computers and will also participate in the focus group online. The specific aim of this study is to assess qualitatively what kinds of information about sex adolescents want to hear from their parents and their perspectives on the factors that either hinder or facilitate effective communication.

ESTIMATED ANNUALIZED BURDEN TABLE

Forms (if necessary)	Type of respondent	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Screener .....	Adults .....	2,000	1	3/60	100
Focus group discussion guide and mini-questionnaire.	Adolescents ages 13-15 .....	160	1	2	320
Total .....	.....	2,160	.....	.....	420

**Seleda M. Perryman,**

*Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.*

[FR Doc. 2010-3982 Filed 2-25-10; 8:45 am]

**BILLING CODE 4150-30-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Office of the National Coordinator for Health Information Technology HIT Policy Committee Advisory Meeting; Notice of Meeting**

**AGENCY:** Office of the National Coordinator for Health Information Technology, HHS.

**ACTION:** Notice of meeting.

This notice announces a forthcoming meeting of a public advisory committee of the Office of the National Coordinator for Health Information Technology (ONC). The meeting will be open to the public.

*Name of Committee:* HIT Policy Committee.

*General Function of the Committee:* To provide recommendations to the