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3. Counsel for Billings Clinic; Bozeman Deaconess Health Services, Inc.; Community Medical Center, Inc.; New West Health Services, Inc.; Northern Montana Health Care, Inc.; and St. Peter's Hospital:
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/s/ Scott I. Fitzgerald

Scott I. Fitzgerald,
Antitrust Division, U.S. Department of Justice, 450 Fifth Street NW., Suite 4100, Washington, DC 20530, (202) 353–3863, *scott.fitzgerald@usdoj.gov*.

AMA—AMERICAN MEDICAL ASSOCIATION
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January 13, 2012

Mr. Joshua H. Soven,
Chief, Litigation I Section,
Antitrust Division,
United States Department of Justice,
450 5th Street, N, Suite 4700,
Washington, DC 20530.

Re: Comments to Proposed Consent Judgment in *U.S.* v. *Blue Cross and Blue Shield of Montana, Inc., et al.* [FR Doc. 2011–29656]

Dear Mr. Soven:

On behalf of the physician and medical student members of the American Medical Association (AMA), I appreciate the opportunity to provide comments in response to the action by the Antitrust Division of the Department of Justice (DOJ) in the matter of Blue Cross and Blue Shield of Montana, Inc. (Blue Cross) and several Montana-area hospitals (the Hospital Defendants) in *U.S.* v. *Blue Cross and Blue Shield of Montana, Inc., et al.,* Civil Action No. 1:11–cv–00123–RFC. This action represents an important step towards reining in health insurers and hospitals whose actions conspire to restrain competition and maintain monopolized health insurance markets.

Accordingly, the DOJ has acted in the public interest with the proposed decree, and the AMA submits the following comments in support. According to the DOJ's complaint, Blue Cross agreed to pay $26.3 million to the Hospital Defendants in exchange for their agreement to collectively stop purchasing health insurance from New West Health Services, an insurer owned by the Hospital Defendants, and instead buy from Blue Cross exclusively for six years (the Agreement). The Agreement, it is alleged, would likely cause New West to exit the relevant Montana markets for commercial health insurance. Because New West is Blue Cross's only viable competitor, the Agreement would have eliminated all competition. Accordingly, as the Complaint alleges, the Agreement would have led to higher prices and lower quality service for consumers.

The AMA applauds the DOJ for its vigilance in recognizing the anticompetitive conduct described above and for fashioning a remedy that holds the promise of nurturing competition in Montana. For years, the AMA has been expressing its concern over the lack of competition in health insurance markets nationally. In its most recent study of health insurance markets, the AMA found that 83% of the 368 metropolitan areas studied qualify as highly concentrated areas, while in 95% of these markets, at least one insurer has a market share of 30% or greater. See, ''Competition in Health Insurance: A Comprehensive Study of U.S. Markets,'' American Medical Association (AMA) (2011 update). Health insurance markets that are monopolized not only hurt consumers directly, they also enable health insurers to exercise monopsony power in physician markets, eventually leading to reductions in service levels and quality of care. The market conditions in Montana are consistent with what the AMA has found nationally.

Blue Cross' dominance in Montana health insurance markets presents a significant barrier to the market success of smaller rivals such as New West, even assuming the absence of exclusionary conduct such as that alleged in this case. In 2010, then Assistant Attorney General Christine Varney reported that the DOJ found that new health insurer entrants cannot compete with incumbents for potential purchasers of their products unless the new entrants can offer similar provider discounts to their enrollees—but they cannot offer these competitive discounts without being able to promise providers a significant number of enrollees to make such an arrangement viable. In turn, these barriers of entry create an anticompetitive environment in which the dominant insurer can achieve lower input prices by demanding lower rates from providers (who face a significant loss of revenue if they refuse such demands), without having to lower their consumer output prices (the cost of their premiums).[1]

In the instant case, the DOJ has fashioned a pro-competitive remedy that addresses the entry barriers faced by small Blue Cross rivals such as New West. First, the proposed final judgment would eliminate the anticompetitive effects of the challenged Agreement by requiring New West and the Hospital Defendants to divest New West's commercial health insurance business. Tentative arrangements call for the acquiring entity to be PacificSource, which is an established health insurer in the Pacific Northwest. To overcome Blue Cross' advantage in obtaining discounts from the Hospital Defendants because of its size, the proposed consent decree creatively requires New West and the Hospital Defendants to help provide PacificSource with a cost-competitive provider network. The Hospital Defendants are required to sign three-year hospital contracts with PacificSource on terms substantially similar to the existing contractual terms with New West. The decree also requires Blue Cross to provide thirty days' written notice to the DOJ before entering into any exclusive contracts with health insurance brokers—contracts that might hinder important health insurer access to brokers. These provisions will help ensure that PacificSource will be able to compete as effectively as New West before the parties entered the Agreement.

In sum, the divestiture of New West mandated in the proposed consent decree will reverse the anticompetitive effects of the challenged Agreement, while the additional provisions may foster an even more robust competition within the market than existed before the Agreement. Given the weak state of health insurer competition in Montana, we applaud the DOJ for creating this remedy in the public interest.

Sincerely,
James L. Madara, MD.

[FR Doc. 2012–4862 Filed 2–29–12; 8:45 am]
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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances, Notice of Application, Mylan Pharmaceuticals, Inc.

Pursuant to 21 U.S.C. 958(i), the Attorney General shall, prior to issuing

[1] See, Speech by Christine Varney, Assistant Attorney General Antitrust Division, U.S. Department of Justice at American Bar Association/American Health Lawyers Association Antitrust in Healthcare Conference, May 24, 2010.

a registration under this Section to a bulk manufacturer of a controlled substance in schedule I or II, and prior to issuing a regulation under 21 U.S.C. 952(a)(2) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with 21 CFR 1301.34(a), this is notice that on December 30, 2011, Mylan Pharmaceuticals, Inc., 781 Chestnut Ridge Road, Morgantown, West Virginia 26505, made application by letter to the Drug Enforcement Administration (DEA) to be registered as an importer of the following basic classes of controlled substances:

Drug	Schedule
Amphetamine (1100)	II
Methadone (9250)	II
Morphine (9300)	II

The company plans to import the listed controlled substances in finished dosage form (FDF) from foreign sources for analytical testing and clinical trials in which the foreign FDF will be compared to the company's own domestically-manufactured FDF. This analysis is required to allow the company to export domestically-manufactured FDF to foreign markets.

Any bulk manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic classes of controlled substances may file comments or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR 1301.43, and in such form as prescribed by 21 CFR 1316.47.

Any such written comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than April 2, 2012.

This procedure is to be conducted simultaneously with, and independent of, the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975, 40 FR 43745–46, all applicants for registration to import a basic class of any controlled substance in schedule I or II are, and will continue to be, required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a); 21 U.S.C. 823(a); and 21 CFR 1301.34(b), (c), (d), (e), and (f) are satisfied.

Dated: February 23, 2012.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2012–4992 Filed 2–29–12; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration; Mylan Pharmaceuticals Inc.

By Notice dated December 22, 2011, and published in the **Federal Register** on December 29, 2011, 76 FR 81978, Mylan Pharmaceuticals, Inc., 781 Chestnut Ridge Road, Morgantown, West Virginia 26505, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the following basic classes of controlled substances:

Drug	Schedule
Methylphenidate (1724)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Fentanyl (9801)	II

The company plans to import the listed controlled substances in finished dosage form (FDF) from foreign sources for analytical testing and clinical trials in which the foreign FDF will be compared to the company's own domestically-manufactured FDF. This analysis is required to allow the company to export domestically-manufactured FDF to foreign markets.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a), and determined that the registration of Mylan Pharmaceuticals, Inc. to import the basic classes of controlled substances is consistent with the public interest, and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. DEA has investigated Mylan Pharmaceuticals, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic classes of controlled substances listed.

Dated: February 23, 2012.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2012–4994 Filed 2–29–12; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Parole Commission

Sunshine Act Meeting

TIME AND DATE: 1:30 p.m., Thursday, March 8, 2012.

PLACE: U.S. Parole Commission, 90 K Street NE., 3rd Floor, Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Consideration of two original jurisdiction cases pursuant to 28 CFR 2.27.

CONTACT PERSON FOR MORE INFORMATION: Patricia W. Moore, Staff Assistant to the Chairman, U.S. Parole Commission, 90 K Street NE., 3rd Floor, Washington, DC 20530, (202) 346–7001.

Dated: February 27, 2012.

Rockne Chickinell,

General Counsel, U.S. Parole Commission.

[FR Doc. 2012–5183 Filed 2–28–12; 4:15 pm]

BILLING CODE 4410–31–P

MISSISSIPPI RIVER COMMISSION

Sunshine Act Meetings

AGENCY: *Agency Holding the Meetings:* Mississippi River Commission.

DATES: *Time and Date:* 9 a.m., March 26, 2012.

Place: On board MISSISSIPPI V at River Park, Tiptonville, TN.

Status: Open to the public.

Matters To Be Considered: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the Memphis District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.