

**MEMORANDUM**

DATE: April 1, 2009
TO: Executive Committee
FROM: Joy Conklin on behalf of the Health Care Finance Committee
SUBJECT: Advocacy Request from Dr. Rudoff Regarding Health Networks of America's Solicitation of Non-Contracted Providers

In June of 2007, the OMA informed members via *STAT* that Health Networks of America has sent letters to physicians stating that they will be removed from their preferred provider panel for "failing to return the credentialing information on multiple occasions." This notice, which could spur physicians to inadvertently join a discount network, implies that the physicians are already contracted with HNA and will subsequently lose patients if they do not respond and pay the \$115 membership fee.

John Rudoff, MD, contacted the OMA in 2007 and 2008 because he had been receiving these unsolicited faxes for years. This issue was brought to the attention of the Health Care Finance Committee and reviewed by its PPO Subcommittee. An attorney with the AMA's Private Sector Advocacy Department suggested that this case be reviewed by the AMA Litigation Center.

Paul Frisch drafted a letter to the AMA Litigation Center which requests that the Center take action on this case due to the fact that not all physicians have the time or resources to resist these pressure tactics and have submitted their data and money to companies such as Health Networks of America.

The Health Care Finance Committee has reviewed this draft letter and is supportive of the request to have this case examined by the AMA Litigation Center. Before reviewing this letter, the case was initially reviewed by the PPO Subcommittee as they had worked on draft legislation to regulate Silent PPOs, which eventually became SB 509. The Health Care Finance Committee met in March 2008 and agreed with the PPO Subcommittee's assessment and support of pursuing this issue.

At this time, the Health Care Finance Committee is seeking your approval to formally send this letter to the AMA Litigation Center so that they can investigate the practice of this company. Per your approval and any suggested changes, this letter will be sent to the AMA Litigation Center and the Executive Committee will be apprised of any developments in this regard.

Thank you for your time and consideration,

David Shute, MD, Health Care Finance Committee Chair

April 3, 2009

Mr. Leonard Nelson
Director, AMA Litigation Center
American Medical Association
515 N. State Street
Chicago, IL 60610

Dear Leonard,

Action Requested

On [*insert date here*] the Oregon Medical Association's Executive Committee voted unanimously to support the request of an AMA and OMA member, Dr. John Rudoff that OMA seek assistance of the AMA Litigation Center in connection with a claim which Dr. Rudoff wishes to pursue against Health Networks of America, LLC.

His claim satisfies the Litigation Center's Case requirements in that the action she is asking the Center to take is consistent with AMA policies set forth below and the OMA supports the involvement of the Litigation Center. In addition we believe that his complaint meets a substantial number of the Center's additional selection factors as will be discussed below. On behalf of the Executive Committee of the OMA, I request that the Center consider Dr. Rudoff's request for support.

Why the Center Should Take Action in the Case

For more than four years, Dr. Rudoff has periodically been subjected to a barrage of faxes from Health Networks of America, LLC, (hereinafter "HNA"), an example dating to September 5, 2007 is attached as Exhibit A. This fax is false and misleading in that it states, "Dr. **John Rudoff** submitted a preferred provider application on **9/10/2001**." In fact, Dr. Rudoff has never submitted a preferred provider application to this company. The following (referring to data including his federal tax ID, NPI number, malpractice carrier, state license number, DEA certificate number and a membership fee of \$115) was demanded with the deadline date of the same day. As Dr. Rudoff can attest: "I have repeatedly been getting faxes from this bunch for years. I am not exaggerating – they sometime send 3 in a week, each one more threatening than the last." The threat was that unless he sent in his money and provided the data they requested, he would be immediately removed from HNA's preferred provider panel.

The center should take the case because not all physicians (or for that matter their staffs) are as vigilant or resistant to these pressure tactics as Dr. Rudoff. No doubt many have submitted to this intimidation and submitted their data and money. If states' attorneys general are as unresponsive as Oregon's former AG was, then it is doubtful the company's false and misleading solicitations have ever been subjected to appropriate scrutiny.

Is the action Dr. Rudoff is requesting that the Center take consistent with AMA policies?

Here are the AMA policies we believe are relevant to that question:

H-285.916 Accuracy in Managed Care Organizations' Physician Listings

Our AMA: (1) policy is that a managed care company should be required to accurately list participating physicians and to include...(2) encourages state attorney's general to prosecute managed care organizations that practice deceptive actions regarding physician listings. (Res. 727 A-05; Reaffirmation A-07)

The above referred to policy is directly on point. The following policies focus on the impact of deceptive MCO marketing activities on the public.

H-2270.982 Truth in Advertising Standards for Managed Health Care Plans

It is the policy of the AMA to seek legislation which would provide that managed health care plans meet high standards of truth in advertising and legal safeguards to assure high quality medical care is not compromised by deceptive marketing activities, ... (Res. 220 A-90; Reaffirmed I-00)

H-175.992 Deceptive Health Care Advertising

Our AMA (1) encourages and assists all physicians and medical societies to monitor and report to the appropriate state and federal agencies any health care advertising for which there is a reasonable good-faith basis for believing that said advertising is false and deceptive in a material fact, together with the basis for such belief...(Sub. Res. 102, A-87; Reaffirmed: Sunset Report I-97; Reaffirmed: BOT Rep 13, I-01)

H-175.993 Fraudulent Health Practices

The AMA favors providing information and educational materials to the public and the profession on fraudulent health practices. (Sub. Res. 62, A-86; Reaffirmed: Sunset Report I-96; Reaffirmed: CLRPD Rep 2, A-06)

Center action is warranted because state and federal agencies charged with addressing these matters routinely fail to act. Witness in this very situation how OMA sent the HNA fax to the Acting Administrator of the Oregon Insurance Division on 10/30/2007 along with the following information:

The OMA alerted the membership in June about possible deceptive practices by Health Networks of America. Letters were sent to physicians in California by HNA, stating that they would be removed from HNA's preferred provider panel for failing to return credentialing information on multiple occasions. This notice, which had the potential to spur physicians to inadvertently join a discount network, implied that physicians were already contracted with HNA and would subsequently lose patients if they did not respond and pay a \$115 membership fee.

The response, dated November 1, 2007 simply stated that HNA was not known to the Insurance Division and that it had received no complaints about the company. This wasn't exactly accurate in that two days before, OMA had complained about the company; but nonetheless...

We strongly urge the Center to investigate the practices of this company; deceptive practices we believe continue to the present time.

I thank you for your consideration.

Paul R. Frisch, JD
General Counsel and Director of Medical-Legal Affairs



HEALTHCARE NETWORKS OF AMERICA, LLC.



*****AUTO**MIXED AADC 852

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Dr. John Rudoff
6475 SW Borland Rd Ste L
Tualatin OR 97062-9708

Dr. John Rudoff

Effective Date: 09/10/01.

The following credentials need to be submitted to complete annual credentialing. *Please submit by the deadline date to be included in our January patient directory update.*

CREDENTIALING FORM

**To complete credentialing please submit the following by:
Deadline Date: 12/15/08**

ø Membership fee \$115 (\$95 if received by deadline)

Check #: _____ MasterCard/Visa American Express

Card Number: _____ Exp. Date: _____

I authorize the above card to be charged for my membership fee.

Signature: _____ Date: _____

ø Federal Tax ID Number: _____

ø National Provider Identifier #: _____

ø Malpractice Carrier: _____ Exp.: _____

ø State License Number: _____ Exp.: _____

ø DEA Certificate #: _____ Exp.: _____

ø Email Address: _____

To obtain a copy of our fee schedule/client list please e-mail us at providerrelations@hna-net.com

I represent that I have read and understand this document. I further represent that all of the information above submitted enrollment form is correct to the best of my knowledge.

Signature: _____ Date: _____

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