

Consolidation in the Healthcare Marketplace: The Idaho Experience



Reforming States Group October 14, 2015

Healthcare Costs are a Big Deal

• 17.2% of Gross Domestic Product of U.S.

• In English, this is \$2.8 trillion dollars per year

This is \$8,915 per person
 – Cal. Healthcare Foundation, Health Care Costs 101



St. Luke's – Saltzer Antitrust Litigation

Federal Trade Commission & State of Idaho et al. v. St. Luke's Health System, Ltd. & Saltzer Medical Group P.A.

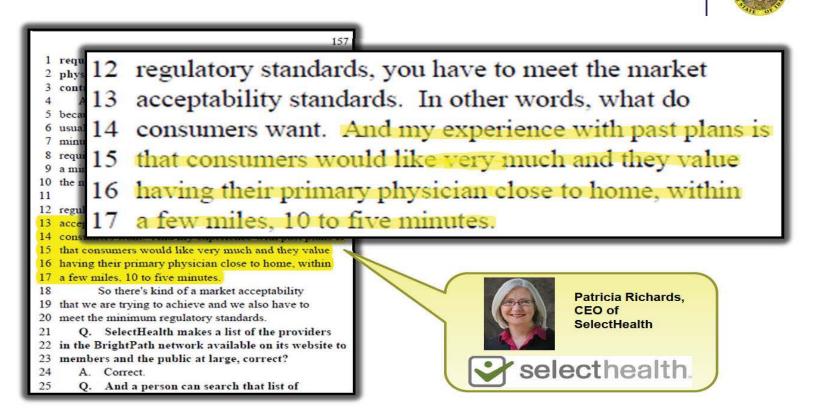
2015 WL 407446 (2-10-15 Ninth Circuit)

2014 WL 525540 (1-24-14 D.Idaho)

Geographic Market Determination is Critical

- The relevant market is a construct of:
 - the geographic market (*where* do parties compete) and
 - product market (*what* are the competing products or services).
- No major dispute in *St. Luke's* that Primary Care Physician (PCP) Services was a proper *product* market.

Patients Strongly Prefer Access to PCPs Close to Home

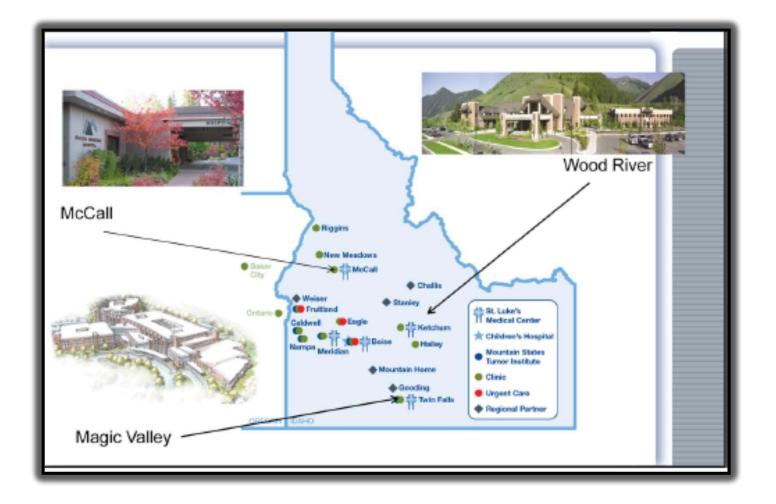


Richards Dep Tr. at 157

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St. Luke's Idaho Presence

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Background--St. Luke's is a <u>"Dominant"</u> <u>Healthcare Provider</u>

157	PLAINTIFF'S EXHIBIT 481
	Colleagues,
	I would like to share a few concerns regarding the recent decision to request a proposal from St A/S. Had I been there, I would have vigorously opposed the decision, in short, I think the decision, again large the result of loblying by a vocal minority, unwise, disingenuous, and a waste of time and money. Explanation to follow.
	Ny thought is that there are a larger number of us who have NO interest in any kind of deal with St AFs, making the pending proposal moot, in that we would vote it down anyway. Therefore, why proceed. Better to stop wasting their time and our money paid to Coker for a meaningless exercise. I am sending this in advance to a number of you to give you time to grad it. Next work t will be active
	you to sten this letter if you agree with me. Thanks for your time. Randy Page
	My thoughts are as follows: My thoughts are
	 bet own people. 9. Their dealings with med saff are bade on what would need to be better from new providers. Witness the development of output 10 Suite at Garrity for Digetive Health Gi group, no just from current staff, and no requirement of them to do consists or take call. Meanwhile, 2 of us remain to try to cover the call. 9. we have watched a respected family practice group leave them TWICE. There is a message there, And where did that group go? St take?. 9. we have watched a respected family practice group leave them TWICE. There is a message them to do consists of the storagest partner. No one would did that group go? St take?. 9. we have watched a respected family practice group leave them TWICE. There is a message there are already fielded many ways to be storagest partner. No one would did that group go? St take?. 9. we have watched a respected family practice group leave them TWICE. There is a message there is the dominant provider is the way? 9. we have watched a nesspected during vary data (and many ways to be take) the strongest partner. No one would did that group go? St take?. 9. we have watched a nesspected during vary data (and many ways to be take) the strongest partner. No one would did take?. 9. we already fielded many ways to be staffer to their facilities. Are our primary care

Background—Saltzer is a <u>"Dominant" Healthcare</u> <u>Provider</u>

From:	Castledine, Ed <castlede@slhs.org></castlede@slhs.org>
Sent:	Tuesday, June 28, 2011 5:15 PM
To:	Taylor, Jeff <taylorj@slhs.org>; Roth, Chr <rothc@slhs.org></rothc@slhs.org></taylorj@slhs.org>
Ce:	'peterl@consiliumgroupllc.com'
Subject:	stats
Attach:	Nampa Physicians.xlsx

Just finished putting this together: it is rough from but wanted to get your perspective on this type of information as it relates to your meeting tomorrow. The first you take are what I need your opinion on. This kegains to show the dominance of Saltzer in the Nampa market. I removed all of the densitys, anesherboolging, chiropprocess cet from the list and left only the actual providers. Out of roughly \$0 physicians in Nampa, Saltzer represents 47. If you add the Mercy Gonzy, we have the opponning to work exclusively with \$54 of the \$10.

I will speak with Peter as well about other relevant financial data. Also, Alau Barton found that revenue associated with the Saltzer specialists to St. Luke's is a little more than \$5m annually.

Let me know what you think - Ed

mg.slrmc.org made the following annotations

"This message is intended for the use of the person or entity to which it is addressed and may comain information that is confidential or privileged, the disclosure of which is governed by applicable law. If the reader of this message is not the intended tecipient, you are hereby notified that any disceminiation, distribution, or corrying of this information is strictly problemed. If you have received this message brow, pieces notify us immediately and destroy the related message."



ATTORNEYS' EYES ONLY

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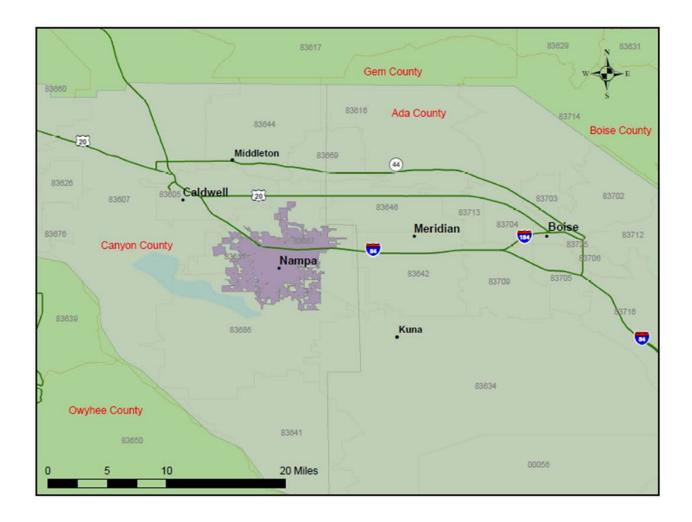
Plaintiffs' Exhibit 1281

"This begins to show the *dominance of Saltzer in the Nampa market*.... Out of roughly 80 physicians in Nampa, Saltzer represents 47. If you add the Mercy Group, we have the opportunity to work exclusively with 54 of the 80."



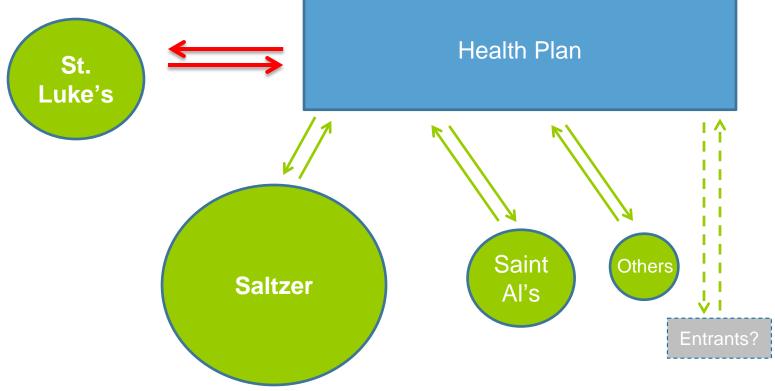
Background—The <u>Acquisition</u>

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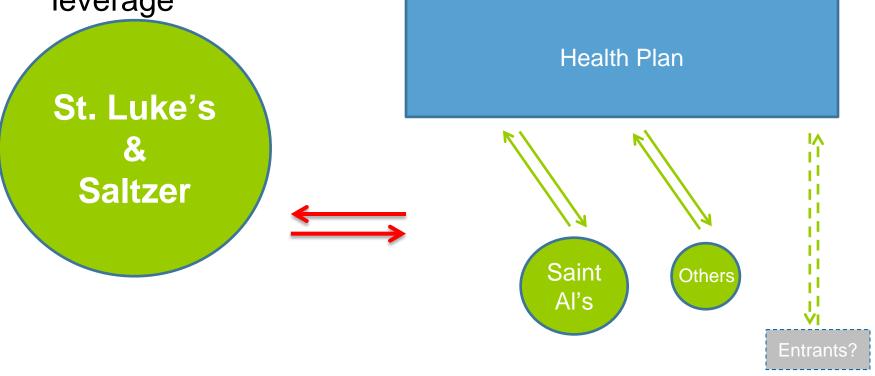
Bargaining leverage depends on substitute physician groups in the market

- <u>Before the Acquisition</u>: Saltzer PCPs offer an attractive substitute for St. Luke's PCPs, and vice versa
 - The health plan thus has a credible "outside option" when it negotiates with each provider



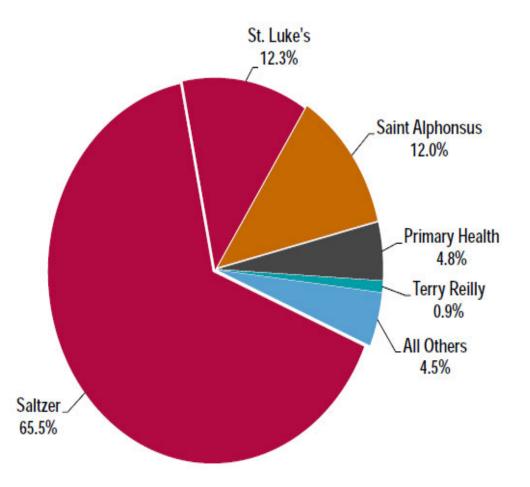
Bargaining leverage depends on substitute physician groups in the market

 <u>After the Acquisition</u>: the health plan loses a credible outside option, and the provider gains negotiating leverage

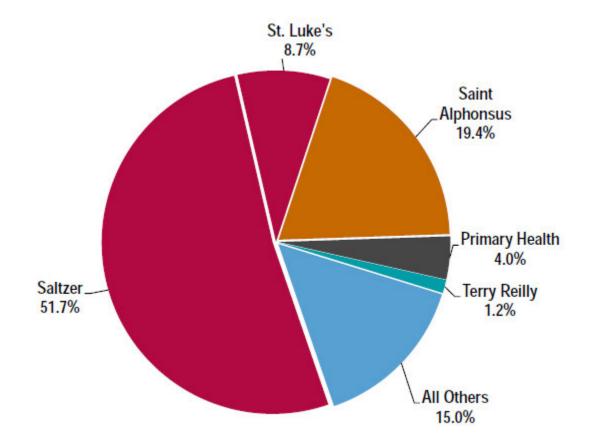


Background—The Acquisition

St. Luke's and Saltzer Accounted For Nearly 80% of Primary Care Physician Services in Nampa



Broader Marker—Same Result

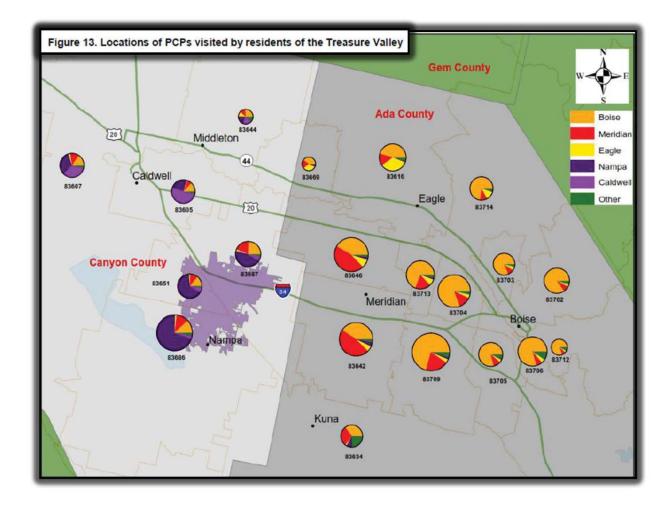




Background--Markets

- The standard for geographic market is "...where buyers can turn for alternate sources of supply." (*Morgan, Strand v. Radiology, Ltd.*, 924 F.2d 1484, 1490 (9th Cir. 1991). Here the relevant buyers are the insurance companies not individual consumers:
- ...the vast majority of health care consumers are not direct purchasers of health care—the consumers purchase health insurance and the insurance companies negotiate directly with providers." (Findings, ¶ 53 (emphasis added).)
- Ninth Circuit emphatically endorsed this, stating it is now the "accepted model." 2015 WL at *4 n. 10.

Market Access is Local



Background—Judgment in Favor of <u>the</u> <u>Government Plaintiffs</u>

- Rejection of Assumption that Non-Profit Entities Will Not Exercise Market Power
- Rejection of Economic Theories that Generated Overbroad Geographic Markets
- Skeptical Review of Asserted Efficiency Benefits
- Rejection of ACA "Defense"
- Affirmance of Divestiture as the Presumed Remedy in Government Actions



STATE OF IDAHO OFFICE OF THE ATTORNEY GENERAL LAWRENCE WASDEN

For Immediate Release February 10, 2015

Media Contact: Todd Dvorak (208) 334-4112

Attorney General Wasden's Statement on the St. Luke's Antitrust Lawsuit

(Boise) – Idaho Attorney General Lawrence Wasden issued this statement following the decision today by the 9th U.S. Circuit Court of Appeals in the antitrust lawsuit involving St. Luke's Health System:

"I appreciate today's decision and what it means for consumers and the healthcare marketplace of the Treasure Valley," Attorney General Lawrence Wasden said. "This case is important because it ensures Idaho's laws will continue to protect and promote competition and a healthy, thriving marketplace, not just in southwestern Idaho but across the state. The decision by the 9th U.S. Circuit Court of Appeals, which affirms the 2013 decision by U.S. District Judge Lynn Winmill, upholds my commitment to protecting and defending Idaho's marketplace and competition laws.

"We look forward to working with St. Luke's in any way possible to fulfill what is now required by the court's decision," Wasden said.

Conclusions

- Healthcare markets are local.
 - Can't compare not so far flung areas because patients won't make the drive
 - Major concern shaping up with graying of smaller communities.
 - Shrinking aging populations need more healthcare
 - Providers consolidating and relocating to population centers
 - Cause and effect
- Consolidation so far has not resulted in cost savings that are passed on to the patients.
- Consumers are patients and insurers—thus the bargaining leverage is an essential component.
- Public Hospital/ Tax Revenue supported healthcare
 - Appealing targets for private/ non-profit
 - NFL Dilemma?
 - Entry magnifies this problem