



August 15, 2002

## 3 Medical Supply Companies Receive U.S. Agency Subpoenas

By MARY WILLIAMS WALSH

group that helps a quarter of the nation's hospitals buy medical supplies has received a federal subpoena, along with three of its contractors in what appears to be a widening federal investigation into how hospitals buy drugs, medical devices and other products.

All four subpoenas were issued by the inspector general for the Department of Health and Human Services.

One subpoena went to Premier Inc., one of the nation's largest hospital buying groups. It sought records relating to Premier contracts with suppliers that then granted Premier executives stock options or other securities.

One of the contractors is [Express Scripts](#), a pharmacy benefits management concern. It said yesterday that it had received a federal subpoena seeking information on stock options it gave to a former board member, Richard A. Norling, Premier's chief executive. Premier awarded Express Scripts a 10-year contract in 1995.

Subpoenas were also served on [Horizon Medical Products](#), a Georgia company that made medical devices, and [American Pharmaceutical Partners](#), a generic-drug company. Premier helped start American Pharmaceutical, then steered millions of dollars in business to it. Two former Premier officials also received stock options from the drug company.

Premier said it had recently sold its stake in American Pharmaceutical.

The inspector general's office declined to comment yesterday on the subpoenas, as did Premier, except to say that it had done nothing wrong.

Premier's ties to American Pharmaceutical and Horizon were first disclosed in articles in The New York Times. The articles detailed accusations of conflicts of interest and self-dealing in Premier and in the nation's other big buying group, Novation. Under pressure from Congress, both groups said that they would make fundamental changes in the way they do business.

Mr. Norling began receiving Express Scripts options in 1992 when he was a board member of both Express Scripts and Premier's predecessor group. He continued to receive options after he became a Premier executive in 1998.

Premier allowed him in 2001 to exercise the options and sell the shares at a gain of more than \$4 million. Mr. Norling said he recused himself from any Premier discussions involving Express Scripts.

Premier said last night that its relationship with Express Scripts was "entirely appropriate."

Premier and Novation are also being investigated by the Federal Trade Commission and the General Accounting Office, the investigative arm of Congress. The F.T.C. wants to know if the groups, which last year negotiated contracts worth more than \$30 billion, are wielding too much control in the market for hospital supplies.

The G.A.O. has already issued a preliminary report that questions whether the groups actually save hospitals money.

Express Scripts said the subpoena also requested information on securities it had given to other people affiliated with Premier. In a press release, the company said it knew of no other Premier officials who received any such securities, and promised to "cooperate fully with the investigation." Express Scripts "is confident that its relationships with Premier and Mr. Norling were appropriate," it said.

Separately, Horizon confirmed that it also had received a federal subpoena. The Times reported last March that in 1998 Horizon issued Premier a warrant for up to 500,000 shares of its stock "in partial compensation" for Premier's business. A top Premier contracting executive also received stock options as a member of Horizon's board, records show.

Subsequently, the antitrust subcommittee of the Senate Judiciary Committee held a hearing at which the buying groups' business practices were criticized. In response, the groups said that they would work to eliminate many of the conflicts of interest reported.

Express Scripts' contract specified that Premier could receive shares of Express Scripts stock if enough of its hospitals signed up with Express Scripts.

After being criticized for such arrangements by a Senate antitrust subcommittee, Premier issued a code of conduct two weeks ago, in which it agreed not to receive stock or other securities from vendors in exchange for business. It also pledged to shorten the terms of its contracts.

Mr. Norling has since stepped down from Express Scripts' board.