

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

DR. RICARDO VASQUEZ, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 INDIANA UNIVERSITY HEALTH, INC., )  
 INDIANA UNIVERSITY HEALTH )  
 BLOOMINGTON, INC., d/b/a )  
 IU HEALTH BLOOMINGTON )  
 HOSPITAL, and DR. DANIEL HANDEL )  
 )  
 Defendant. )

Case No. 21-CV-1693

**COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF**

This is a monopolization case about a health system—Indiana University Health, Inc.—and its subsidiary hospital in Bloomington, Indiana, Indiana University Health Bloomington, Inc. (collectively, “IU Health”) building a monopoly in primary care services through a series of anticompetitive acquisitions, and using that monopoly to secure and enhance monopolies over specialist services, including vascular surgery. As a result, healthcare costs to patients and health insurance companies (“payors”) in Bloomington have increased, quality of care has decreased, and some patients are unable to receive care, because the monopolist IU Health sends those patients to its higher cost sister facilities in Indianapolis or has made the decision not to perform certain procedures at all.

**INTRODUCTION**

1. IU Health is a monopolist with over 92.5 percent market share of inpatient discharges in the Bloomington area. In addition, it employs and controls 35 of the 36 family practice physicians and internists (collectively, “Primary Care Physicians”)—over 97% of the

total—who have a primary practice location in Bloomington.<sup>1</sup> These Primary Care Physicians refer patients to specialist surgeons who rely on their referrals to receive patients.

2. IU Health’s largest facility in Southern Indiana is Indiana University Health Bloomington, Inc. d/b/a IU Health Bloomington Hospital (“Bloomington Hospital”), located in Bloomington, Indiana. IU Health also owns two critical access hospitals in Southern Indiana—Indiana University Health Bedford (“IU Health Bedford”) and Indiana University Health Paoli (“IU Health Paoli”)—and the vast majority of the area physician practices. Finally, IU Health holds a 45% share in the largest of two area outpatient surgery centers.

3. Not happy with its high profits and already dominant position in healthcare in Bloomington, in approximately 2017, IU Health instituted an increasingly aggressive scheme to acquire nearly all of the Primary Care Physicians in Bloomington. In doing so, it both cemented its monopoly in primary care services, and it used that monopoly to secure and maintain monopolies in specialty services. Now, because it controls the physicians who refer to specialists, and controls many of the specialists as well, IU Health decides where surgeries are performed and which surgeries are available to area patients, payors, and other healthcare providers.

4. As one example, IU Health leveraged its monopoly in primary care services to monopolize vascular surgery services, a specialty service area. In the past two years, the percentage of vascular surgeons in the Bloomington area that were employed by IU Health rose from 50 percent (1 out of 2) to 75 percent (3 out of 4). IU Health’s control over primary care services forces patients to see the IU Health employed vascular surgeons to their detriment, and

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<sup>1</sup> In the Greater Bloomington Metropolitan Area consisting of the three counties of Greene, Monroe, and Owen, IU Health employs approximately 83% of the family practice physicians and internists. It also has a monopoly for nurse practitioners, controlling 80% of the nurse practitioners.

sacrifices patients' continuity of care. IU Health charges more for patients to see these unfamiliar vascular surgeons—raising prices to consumers and payors—patients receive lower quality care, and patients cannot receive certain vascular surgery services altogether from the IU Health vascular surgeons.

5. Plaintiff Dr. Ricardo Vasquez is the only independent vascular surgeon left in Southern Indiana, and the sole obstacle to IU Health obtaining a complete monopoly over vascular surgery services. Until April 2019, Dr. Vasquez held privileges (allowing him to perform surgeries) at Bloomington Hospital. Simultaneously, he held privileges at the only other hospital in town—the much smaller Monroe Hospital—and the Indiana Specialty Surgery Center, which competes directly with the IU Health-affiliated surgery center. IU Health targeted Dr. Vasquez because he chose to remain an independent physician, threatening IU Health's monopoly over vascular surgery services and its ability to reap monopoly profits. Bloomington Hospital improperly revoked Dr. Vasquez's privileges because he threatened IU Health's monopoly by competing directly with IU Health: for example, by (1) performing hospital-based procedures at Monroe; (2) performing procedures at IU Health's only competitor outpatient surgery center; and (3) opening an office-based laboratory to compete directly with IU Health in outpatient vascular surgery services.

6. IU Health revoked Dr. Vasquez's privileges in April 2019. In January 2020, IU Health took a further step in revoking Dr. Vasquez's credentialing as an IU Health Plan<sup>2</sup> participating provider, meaning that IU Health Plan covered patients are forced to pay out of pocket, at increased cost, to see Dr. Vasquez. Without privileges, Dr. Vasquez cannot perform surgeries at any IU Health facility, cannot treat any IU Health Plan insured as an in-network

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<sup>2</sup> IU Health Plan is IU Health's vertically integrated health insurance plan.

patient, and, critically, cannot receive referrals from IU Health employed or affiliated physicians without the physicians facing retribution and retaliation from IU Health.<sup>3</sup>

7. In addition, and all in an effort to destroy his reputation and practice, IU Health and its Chief Medical Officer (“CMO”), Dr. Daniel Handel, have maliciously publicized false statements about Dr. Vasquez, and filed meritless complaints against Dr. Vasquez with the Indiana Professional Licensing Agency and the Indiana Attorney General in 2020. Neither agency has determined it proper to pursue an investigation against Dr. Vasquez based on those complaints.

8. On information and belief, IU Health and Dr. Handel also are directing the IU Health employed vascular surgeons to wrongfully and falsely blame any and all missteps in care on Dr. Vasquez. Because Bloomington Hospital is the only area Level III Trauma Center and the only area Stroke Center, patients under Dr. Vasquez’s care may end up in the Bloomington Hospital emergency room and, therefore, be seen by IU Health vascular surgeons. In one recent instance, Dr. Vasquez had determined to treat a patient medically (i.e., without surgery) because she had not responded well to surgery in the past. The patient had been stable under Dr. Vasquez’s care for years. She went to the Bloomington Hospital emergency room with a toe ulcer. The IU Health vascular surgeons performed two unnecessary surgeries and ultimately had to amputate her leg. The IU Health vascular surgeons then falsely blamed their poor care on Dr. Vasquez, in an attempt to harm Dr. Vasquez’s reputation and harm him financially.

9. Patients have suffered from reduced choice because Dr. Vasquez is well-known as the most skilled vascular surgeon in the area. He is the only area vascular surgeon performing the

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<sup>3</sup> Surgeons have been retaliated against for referring patients to Dr. Vasquez, as described in more detail below.

cutting edge and revolutionary vascular procedure, transcarotid stenting (TCAR).<sup>4</sup> He also performs arteriovenous (AV) fistula procedures—a necessary procedure for many dialysis patients—in significantly less time than the other three vascular surgeons in Bloomington and with excellent results. Patients in need of these procedures are high risk, with preexisting heart and lung conditions that make anesthesia problematic. Dr. Vasquez’s ability to perform procedures quickly greatly increases the likelihood of success and decreases the risk of patient morbidity.

10. Examples abound of IU Health’s employed vascular surgeons failing to recognize and/or sending patients home with life-threatening, severe aneurysms and other life-threatening vascular conditions. Some of these patients have died. The IU Health vascular surgeons have been directed not to perform certain procedures altogether, and instead have been instructed to send patients needing more complicated procedures, including TCAR, to another IU Health facility outside of Southern Indiana. IU Health even sends most patients with aneurysms—a common, but life-threatening condition—to IU Health’s Methodist Hospital an hour away in Indianapolis. IU Health is forcing patients to travel further to seek care they could—but for IU Health’s conduct against Dr. Vasquez—receive closer to home, cheaper, and with good outcomes. This policy and practice increases prices and reduces quality of care in the following ways: (1) Methodist’s prices are higher; (2) the increased patient load overburdens the physician and nursing staff at Methodist, reducing quality of care; and (3) transferring patients

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<sup>4</sup> TCAR is revolutionary because it replaces the traditional carotid endarterectomy, which is a procedure to remove plaque buildup in the carotid artery to reduce the risk of strokes. A common side effect of the carotid endarterectomy is that calcium deposits get back into the patient’s blood stream, putting the patient at risk for stroke again. With TCAR, the patient’s blood is shunted away and filtered—resulting in no calcium deposits and no side effects.

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