

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO, *ex rel.*
DAVE YOST,
ATTORNEY GENERAL
30 East Broad Street
State Office Tower – 14th Floor
Columbus, Ohio 43215

Plaintiff,

v.

CHS/COMMUNITY HEALTH
SYSTEMS, INC.
4000 Meridian Blvd.
Franklin, TN 37067-6325

and

CHSPSC, LLC, f/k/a COMMUNITY
HEALTH SYSTEMS PROFESSIONAL
SERVICES CORPORATION
4000 Meridian Blvd.
Franklin, TN 37067-6325

Defendants.

CASE NO.:

JUDGE:

**COMPLAINT FOR
DECLARATORY JUDGMENT,
INJUNCTIVE RELIEF, CIVIL
PENALTIES AND COSTS**

COMPLAINT

1. Plaintiff, State of Ohio, by and through the Attorney General of Ohio, Dave Yost and his Consumer Protection Section, brings this action to enjoin Defendants CHS/Community Health Systems, Inc. (CHS/CHSI) and CHSPSC, LLC, formerly known as Community Health Systems Professional Services Corporation (CHSPSC) from engaging in unfair or deceptive acts or practices in connection with a data breach disclosed by Defendants in August 2014.

PARTIES

2. Plaintiff is the State of Ohio, by and through the Attorney General of Ohio, Dave

Yost and his Consumer Protection Section, who brings this action in the public interest and on behalf of the State of Ohio under the authority vested in him pursuant to R.C. 1345.07 of the Consumer Sales Practices Act.

3. Defendant CHS/CHSI is a Delaware publicly traded company with its principal place of business at 4000 Meridian Blvd., Franklin, TN 37067-6325 and is the parent company of Defendant CHSPSC, LLC.

4. Defendant CHSPSC is a Delaware limited liability company that provides management and professional services to various hospitals and other healthcare providers affiliated with CHS/CHSI. Its principal place of business is 4000 Meridian Blvd., Franklin, TN 37067.

5. Defendants transact business in Ohio and in a number of other states by providing management and professional services to various hospitals and other healthcare providers.

JURISDICTION AND VENUE

6. Plaintiff, State of Ohio, by and through the Attorney General of Ohio, Dave Yost and his Consumer Protection Section, having reasonable cause to believe that violations of Ohio's consumer laws have occurred, brings this action in the public interest and on behalf of the State of Ohio under the authority vested in him pursuant to R.C. 1345.07 of the Consumer Sales Practices Act.

7. The actions of the Defendants, hereinafter described, have occurred in the State of Ohio, County of Trumbull and various other counties, and as set forth below, are in violation of the Consumer Sales Practices Act, R.C. 1345.01 et seq.

8. Defendants CHS/CHSI and CHSPSC are "suppliers" as that term is defined in R.C. 1345.01(C) as CHS/CHSI and CHSPSC were, at all times relevant herein, engaged in the

business of effecting “consumer transactions” by providing management and professional services to various hospitals and other healthcare providers in the State of Ohio for purposes that were primarily for personal, family or household use within the meaning specified in R.C. 1345.01(A) and (D).

9. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the Consumer Sales Practices Act.

10. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(C), in that some of the transactions complained of herein and out of which this action arose, occurred in Trumbull County.

ALLEGATIONS

ACTS OF AGENTS

11. Whenever in this Complaint it is alleged that Defendants did any act, it is meant that:

- A. Defendants performed or participated in the act; or
- B. Defendants’ officers, affiliates, subsidiaries, divisions, agents or employees performed or participated in the act on behalf of and under the authority of the Defendants.

BACKGROUND

12. Community Health Systems, Inc. (CHS/CHSI) and CHSPSC, LLC are headquartered at 4000 Meridian Blvd. in Franklin, Tennessee. CHSPSC provides services, including management, consultation, and information technology services for hospitals and other affiliates of CHS/CHSI. CHS/CHSI is one of the largest publicly-traded hospital companies in

the United States and a leading operator of general acute-care hospitals in non-urban and mid-size markets throughout the country.

13. Prior to the breach, CHS/CHSI and CHSPSC, LLC (hereafter “Defendants”) owned, leased or operated 206 affiliated hospitals in 29 states and these affiliates offered a broad range of health care services including inpatient and surgical services, outpatient treatment, and skilled nursing care.

DISCLOSURE OF BREACH AND RESPONSE

14. In August 2014, Defendants publicly disclosed that in the preceding month CHSPSC had confirmed that its computer network had been accessed by intruders, first in April and again in June of 2014.

15. Defendants further disclosed that they believed the intruder had used malware to gain access to the company’s security systems and had successfully copied and transferred data, including the personal information of approximately 4.5 million patients that was on CHSPSC’s systems. After additional investigation, Defendants disclosed that the total number of patients whose personal information was accessed was approximately 6.1 million. The data taken related to patients of some of Defendants’ affiliated physician practices and clinics and included patients’ names, addresses, birthdates, social security numbers, and in some cases telephone numbers as well as the names of employers or guarantors. However, to the best of Defendants’ knowledge, no credit card information or medical or clinical information was taken.

16. Defendants also provided notice of the breach to government regulators and mailed notification letters to all affected patients informing them about the data breach. In these letters Defendants offered affected patients the opportunity to enroll in free identity theft protection and credit monitoring services. Defendants also established a toll-free number and

web site where affected patients could obtain additional information including how to access these services.

STATEMENT OF FACTS

17. In the regular course of business, Defendants collect and maintain the personal information of individuals including individual names, addresses, dates of birth, and social security numbers.

18. Defendants also create, receive, use and maintain electronic Protected Health Information subject to the requirements of the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health (“HITECH”) Act, 42 U.S.C. § 1302(a), and the Department of Health and Human Services Regulations, 45 C.F.R. § 160 et seq.(collectively, “HIPAA”). HIPAA and its Rules require the implementation of appropriate administrative, physical, and technical safeguards to ensure the confidentiality, integrity, and security of electronic PHI. See, 45 CFR Part 160 and Subparts A and C of Part 164.

19. Through its various policies, including a Privacy Policy and website Terms of Use, Defendants disclosed to consumers that they collected personal information, and generally explained what information was collected and the purpose for which it was collected and used, and the circumstances in which such information might be disclosed. Defendants also provided patients with the Notice of Privacy Protections as required by the HIPAA Privacy Rule.

20. In their disclosures to consumers, Defendants represented that they protected personal information, specifically that they treated the “...technical side of security seriously [and] stored personal information ... on a secure server in a way that maximizes security and

confidentiality,” and employed security measures to protect information from unauthorized disclosure through various means such as encryption.

CAUSE OF ACTION

UNFAIR OR DECEPTIVE CONSUMER SALES PRACTICES

21. Plaintiff realleges and incorporates by reference herein each and every allegation contained in the preceding paragraphs 1 through 20.

22. Plaintiff further alleges that Defendants engaged in a course of trade or commerce which constitutes false, deceptive, or misleading acts or practices, and is therefore unlawful under the Consumer Sales Practices Act R.C. 1345.01 et seq. More specifically, Plaintiff alleges that contrary to its representations to consumers, Defendants:

- A. Failed to implement and maintain reasonable security practices to protect consumers’ personal information it collects and maintains;
- B. Failed to store personal information in a way that maximized its security and confidentiality; and
- C. Permitted the disclosure of Protected Health Information in a manner inconsistent with the requirements of HIPAA and its rules.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

1. Adjudge and decree that the Defendants have engaged in acts or practices in violation of the Consumer Sales Practices Act., R. C. 1345.01 *et seq.*, as previously set forth.
2. Permanently enjoin and restrain the Defendants from engaging in unfair or deceptive consumer sales practices set forth herein and from violating the Consumer Sales Practices Act.
3. Adjudge and decree that the Defendants are liable to the State for the reasonable costs and expenses of the investigation and prosecution of the Defendants' actions.
5. Assess, fine and impose upon the Defendants a civil penalty pursuant to R. C. 1345.07(D) of Twenty-Five Thousand Dollars (\$25,000.00) for each unfair or deceptive act or practice alleged herein.
6. Order that all costs in this cause be taxed against the Defendants.
7. Grant Plaintiff such other and further relief as this Court deems just, equitable and appropriate.

Respectfully Submitted,

DAVE YOST
Attorney General

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