

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
FILE NO.

WAKE COUNTY

2020 OCT -8 A 10:57

STATE OF NORTH CAROLINA, *ex rel.* )  
JOSHUA H. STEIN, ATTORNEY GENERAL, )

  
Plaintiff, )

v. )

COMPLAINT

CHS/COMMUNITY HEALTH SYSTEMS )  
INC., a Delaware corporation, and )  
CHSPSC, LLC, f/k/a COMMUNITY HEALTH )  
SYSTEMS PROFESSIONAL SERVICES )  
CORPORATION, a Delaware corporation, )

Defendants. )

**INTRODUCTION**

NOW COMES the Plaintiff, STATE OF NORTH CAROLINA, by and through its Attorney General, JOSHUA H. STEIN, and brings this action against Defendants CHS/Community Health Systems Inc. (CHS/CHSI) and CHSPSC, LLC, formerly known as Community Health Systems Professional Services Corporation (CHSPSC) for violations of North Carolina's Unfair and Deceptive Trade Practices Act, N.C.G.S. §§ 75-1.1, *et seq.*, and states as follows:

**PARTIES**

1. Plaintiff the State of North Carolina, acting by and through its Attorney General Joshua H. Stein, brings this enforcement action pursuant to authority found in Chapters 75 and 114 of the North Carolina General Statutes in connection with a data breach disclosed by Defendants in August 2014.

2. Defendant CHS/Community Health Systems, Inc. (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.

3. Defendant CHSPSC, LLC (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.

### **JURISDICTION AND VENUE**

4. Jurisdiction is proper pursuant to N.C.G.S. §§ 75-1.1 and 75-15 because the acts or practices alleged herein are in or affecting commerce in North Carolina.

5. Venue is proper pursuant to N.C.G.S. § 114-2.

### **TRADE & COMMERCE**

6. Defendants have, at all times described below, engaged in conduct which constitutes “trade” and “commerce” as those terms are defined by North Carolina’s Unfair and Deceptive Trade Practices Act, N.C.G.S. §§ 75-1.1, *et seq.*

### **ACTS OF AGENTS**

7. 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**

8. 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.

9. 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**

10. 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.

11. 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.

12. 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**

13. 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.

14. 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 C.F.R. Part 160 and Subparts A and C of Part 164.

15. 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.

16. 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.

17. Defendants engage in trade and commerce and do business in North Carolina as Williamston HBP Services LLC and Williamston Clinic Corp. doing business as Martin Family Medicine, Roanoke Orthopedics, Roanoke Surgical, Roanoke Women's Healthcare, and Williamston Heart & Vascular Center.

**COUNT I: VIOLATION OF UNFAIR AND DECEPTIVE TRADE PRACTICES ACT**

18. The State of North Carolina re-alleges and incorporates by reference each of the preceding paragraphs of this Complaint.

19. The State of North Carolina further alleges that Defendant has, in the conduct of trade or commerce, engaged in false, misleading, or deceptive acts or practices in violation of North Carolina's Unfair and Deceptive Trade Practices Act, N.C.G.S. §§ 75-1.1, *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, State of North Carolina, respectfully requests the Court to enter Judgment:

20. Determining that the Defendant has violated the Unfair and Deceptive Trade Practices Act, N.C.G.S. §§ 75-1.1 *et seq.*;

21. Enjoining and prohibiting the Defendant from further acts and practices in violation of North Carolina's Unfair and Deceptive Trade Practices Act;

22. Requiring other equitable relief to cure Defendant's deceptive practices;

23. Requiring, pursuant to N.C.G.S. § 75-16.1, the Defendant to pay costs and reasonable attorneys' fees incurred by the State in connection with the investigation and litigation of this matter; and

24. Granting such other and further relief as is appropriate to remedy Defendant's unlawful trade practice.

Respectfully submitted this the 8th day of October, 2020.

JOSHUA H. STEIN  
Attorney General



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