

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

STATE OF IOWA *ex rel.*
THOMAS J. MILLER,
ATTORNEY GENERAL OF IOWA

Plaintiff,

v.

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

Defendants.

EQUITY NO. _____

PETITION IN EQUITY

NOW COMES Plaintiff the State of Iowa *ex rel.* Attorney General Thomas J. Miller, through Assistant Attorney General William R. Pearson, and complains of CHS/Community Health Systems Inc. (CHS/CHSI) and CHSPSC, LLC, formerly known as Community Health Systems Professional Services Corporation (CHSPSC) and for cause of action respectfully shows the following:

PARTIES

1. Plaintiff the State of Iowa *ex rel.* Attorney General Thomas J. Miller brings this enforcement action in the public interest alleging violations of state consumer protection and identity theft prevention laws 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.

PUBLIC INTEREST

4. Plaintiff State of Iowa has reason to believe Defendants have engaged in and will continue to engage in the unlawful practices described below. Therefore, Plaintiff has reason to believe that Defendants have caused and will cause adverse effects to business enterprises which lawfully conduct trade and commerce in this State. Further, one of the principal purposes of this state's Personal Information Security Breach Protection Act is to protect consumers from identity theft in part by requiring businesses to implement and maintain reasonable safeguards to protect personal information of consumers from unlawful use or disclosure.

5. Therefore, the State of Iowa has reason to believe that this action is in the public interest.

JURISDICTION & VENUE

6. This enforcement action is brought by the Attorney General of Iowa, in the name of the State and in the public interest, pursuant to the authority granted to him by Iowa Code § 714.16(7) of the Iowa Consumer Fraud Act and Iowa Code Ch. 715C, the Personal Information Security Breach Protection Act.

7. Venue is proper in Polk County pursuant to Iowa Code § 714.16(10) because Defendant has engaged in violations of Iowa Code §§ 714.16 and 715C that have affected residents of Polk County.

ADVERTISEMENT

8. Defendants have, at all times described below, engaged in conduct which

constitutes “advertisement” as that term is defined by subsection 1(a) of the Consumer Fraud Act, Iowa Code § 714.16(1)(a).

ACTS OF AGENTS

9. Whenever in this Petition 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

10. 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.

11. 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

12. 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.

13. 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.

14. 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

15. 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.

16. 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.

17. 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.

18. 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.

19. Defendants engage in trade and commerce and do business at medical facilities used by Iowa consumers.

FIRST CAUSE OF ACTION

20. The State of Iowa re-alleges and incorporates by reference each and every preceding paragraph of this petition.

21. The State of Iowa further alleges that Defendant has, in the conduct of trade or commerce, engaged in false, misleading, or deceptive acts or practices in violation of Iowa Code § 714.16. 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.

SECOND CAUSE OF ACTION

22. The State of Iowa re-alleges and incorporates by reference each and every preceding paragraph of this petition.

23. The State of Iowa alleges that Defendants' conduct as described above violated Iowa Code Ch. 715C.

PRAYER

24. WHEREFORE, Plaintiff prays that this court will award judgment for the Plaintiff and against the Defendants and enter an Order:

- A. Finding that Defendants violated Iowa Code §714.16 by engaging in the unlawful acts and practices alleged herein;
- B. Finding that Defendants violated Iowa Code Ch. 715C by engaging in the unlawful acts and practices alleged herein;
- C. Enjoining Defendants from engaging in the deceptive acts and practices alleged herein;
- D. Requiring Defendants to pay a penalty of \$40,000 per violation of Iowa Code § 714.16;

E. Requiring Defendants to pay a penalty of \$40,000 per violation of Iowa Code Ch. 715C, and damages to each consumer injured by Defendants' violations thereof;

F. Granting Plaintiff any other equitable relief that the court considers appropriate to prevent any additional harm to victims of identity theft or to prevent any further violations of Iowa Code Ch. 715C; and

G. Requiring Defendants to pay all costs and fees for the prosecution and investigation of this action pursuant Iowa Code § 714.16(11).

25. The State further prays that this court grant all other relief to which the Plaintiff STATE OF IOWA may show itself entitled.

Respectfully submitted,

THOMAS J. MILLER
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