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7 **STATE OF WASHINGTON**
8 **WHATCOM COUNTY SUPERIOR COURT**

9 STATE OF WASHINGTON,

10 Plaintiff,

11 v.

12 PEACEHEALTH,

13 Defendants.

NO.

COMPLAINT FOR INJUNCTIVE AND
OTHER RELIEF

14 Plaintiff, State of Washington, by and through its attorneys Robert W. Ferguson,
15 Attorney General, and Audrey Udashen and Will O'Connor, Assistant Attorneys General, brings
16 this action against Defendant PeaceHealth. The State alleges that Defendant engaged in unfair
17 or deceptive acts or practices in violation of the Consumer Protection Act, RCW 19.86, by
18 failing to screen patients for charity care eligibility prior to attempting to collect payment,
19 failing to meaningfully disclose the availability of charity care, and collecting payment from
20 patients who it knew were likely charity care eligible without disclosing their eligibility.

21 **I. PARTIES**

22 1.1 The Plaintiff is the State of Washington. The Attorney General is authorized to
23 commence this action pursuant to RCW 19.86.080 and RCW19.86.140. The Washington State
24 Attorney General's Office created the Consumer Protection Division to detect, investigate, and
25 prosecute any act prohibited or declared to be unlawful under the Washington Consumer
26 Protection Act.

1 1.2 Defendant PeaceHealth is a Washington non-profit corporation, with its principal
2 place of business located at 1115 SE 164th Ave. Dept. 302, Vancouver, WA, 98683. PeaceHealth
3 owns and operates five hospitals in western Washington, St. Joseph Medical Center in Bellingham,
4 Peace Island Medical Center in Friday Harbor, St. John Medical Center in Longview, United
5 General Medical Center in Sedro Wolley, and Southwest Medical Center in Vancouver.

6 **II. JURISDICTION AND VENUE**

7 2.1 The State files this Complaint and institutes these proceedings under the
8 provisions of the Consumer Protection Act, RCW 19.86.

9 2.2 Defendants have engaged in the conduct set forth in this Complaint in Whatcom
10 County and elsewhere in the State of Washington.

11 2.3 Venue is proper in Whatcom County pursuant to RCW 4.12.020 and 4.12.025,
12 and Court Rule 82 because Defendants reside in and transact business in Whatcom County.

13 2.4 The Attorney General has the authority to commence this action as conferred by
14 RCW 19.86.080 and RCW 19.86.140.

15 **III. FACTS**

16 **A. Washington's Charity Care Act.**

17 3.1 In 1989, the Legislature enacted the Charity Care Act (CCA), RCW 70.170,
18 mandating that all Washington hospitals must provide free and reduced cost care to low income
19 patients.

20 3.2 The CCA and its implementing regulations (collectively Charity Care Regulations)
21 require Washington hospitals to provide charity care to all "indigent" patients. RCW 70.170.060(5).
22 Previously, a patient was deemed indigent under the CCA if their household income was at or below
23 200% of the federal poverty level (FPL). RCW 70.170.060(5)(2018) (requiring charity care for full
24 amount of hospital charges for patients at or below 100% FPL); WAC 246-453-040(2) (requiring
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1 partial charity care for patients between 101% and 200% FPL).¹ Effective July 1, 2022, the Charity
2 Care Act was amended, expanding the definition of indigent to patients whose household income
3 is at or below 400% FPL. RCW 70.170.060(5)(a). This charity care obligation extends to all
4 “medically necessary hospital health care.” RCW 70.170.020(4).²

5 3.3 The Legislature’s charity care mandate is not limited to uninsured patients, but also
6 includes low-income insured patients to the extent they have out-of-pocket responsibilities not
7 covered by insurance. RCW 70.170.020 (charity care applies “to the extent that the persons are
8 unable to pay for the care or to pay deductibles or coinsurance amounts required by a third-party
9 payer”); WAC 246-453-010(4) (“indigent persons” covered by charity care include “patients who
10 have exhausted any third-party sources, including Medicare and Medicaid, and whose income is
11 equal to or below 200%” FPL”).

12 **B. PeaceHealth failed to screen patients for charity care eligibility before attempting to**
13 **collect payment from them.**

14 3.4 The Charity Care Regulations require hospitals to “make every reasonable effort to
15 determine” a patient’s insurance status, annual family income, and eligibility for charity care.
16 RCW 70.170.060(10). The CCA refers to these assessments as “initial determinations of
17 sponsorship status” (Initial Determinations) and requires them to “precede collection efforts
18 directed at the patient.” RCW 70.170.060(10)(c). The Charity Care Regulations define “collection
19 efforts” broadly to include “any demand for payment or transmission of account documents or
20 information which is not clearly identified as being intended solely for the purpose of transmitting
21 information to the responsible party.” 246-453-020(1)(a).

22 3.5 The Charity Care Regulations direct hospitals to conduct these Initial
23 Determinations “at the time of admission or as soon as possible following initiation of services”

24 ¹ Under 2022 poverty guidelines, 100% FPL and 200% FPL for a four-person household are
25 incomes of \$27,750 and \$55,500 per year, respectively. See <https://aspe.hhs.gov/poverty-guidelines>.

26 ² The terms “charity care” and “financial assistance” are used interchangeably in this
Complaint.

1 and to rely on a patient's oral representations about their family income and insurance status.
2 WAC 246-453-020(1)(b); WAC 246-453-030(1).

3 3.6 If a hospital's Initial Determination reveals that a patient may be charity care
4 eligible, the hospital cannot attempt to collect payment from the patient until the hospital reaches a
5 "final determination of sponsorship status," assuming the patient is cooperative with the hospital's
6 efforts to make this determination. WAC 246-453-020(1)(c). Hospitals may require patients to
7 complete an application and provide evidence of their family income to make final determinations
8 of sponsorship status. WAC 246-453-020(5).

9 *1. Pre-treatment requests for payment.*

10 3.7 At times relevant to this Complaint, PeaceHealth attempted to collect pre-service
11 deposits and estimates for certain procedures without first determining a patient's eligibility for
12 charity care. PeaceHealth sent letters that gave the deceptive net impression that patients were
13 required to pay a deposit for pre-scheduled services. PeaceHealth did not conduct Initial
14 Determination of charity care eligibility before sending these letters.

15 *2. During patient registration, PeaceHealth attempted to collect payment without first*
16 *conducting an Initial Determination*

17 3.8 PeaceHealth also attempted to collect payment from patients during registration
18 without properly conducting an Initial Determination.

19 3.9 Instead of conducting Initial Determinations, until 2021, PeaceHealth trained staff
20 to attempt to collect payment from all patients during registration and only provide information
21 about charity care when patients responded to their collection demands by affirmatively indicating
22 that they had an "inability to pay."

23 3.10 PeaceHealth distributed training materials that directed its staff to request payment
24 from all insured patients during registration by identifying the amount due followed by "How would
25 you like to pay *today*? We accept check, health savings account card, debt or credit card?" By asking
26

1 patients how they wanted to pay today—instead of *if* they wanted to pay or *if* they were *able* to pay
2 – PeaceHealth created the impression that patients had no option but to pay for their care.

3 **C. PeaceHealth’s use of predictive analytics in its billing cycle.**

4 3.11 If PeaceHealth was unsuccessful at collecting a patient’s balance at or before their
5 treatment, it attempted to collect post-treatment by sending up to four bills and by placing collection
6 calls.

7 3.12 Since 2018, PeaceHealth has used a tool called PARO, offered by a company called
8 Waystar, in its billing cycle. Waystar describes the PARO tool as using publicly available data and
9 predictive analytics to “automate” the charity care process and “proactively and consistently
10 identify patients that qualify for charity under a provider’s Financial Assistance Policy.”

11 3.13 The PARO tool identifies patients who are likely or “presumptively” charity care
12 qualified.

13 3.14 In June 2019, PeaceHealth began receiving information indicating whether patients
14 were presumptively charity care qualified from PARO around the time it transmitted a patient’s
15 first bill.

16 3.15 Despite knowing which of its patients were likely charity care qualified early in its
17 billing cycle, PeaceHealth continued to bill these patients, sending them up to four bills and making
18 collection calls without disclosing their likely eligibility for charity care.

19 3.16 PeaceHealth collected millions of dollars from patients identified as presumptively
20 charity care qualified.

21 3.17 If presumptively eligible patients still have amounts owing after the transmission of
22 their fourth and final bill, PeaceHealth granted charity care to the patient. However, it did not refund
23 any partial payments made by these patients, nor did it notify these patients that they had been
24 awarded charity care.

1 **IV. CLAIM FOR VIOLATION OF THE CONSUMER PROTECTION ACT, RCW**
2 **19.86.020**

3 4.1 Plaintiff re-alleges Paragraphs 1.1 through 3.17 and incorporates them as if set
4 fully herein.

5 4.2 Upon information and belief, PeaceHealth engaged in unfair and deceptive
6 conduct in trade or commerce affecting Washington consumers, including but not limited to the
7 following:

8 4.2.1 Failing to adequately disclose the availability of charity care;

9 4.2.2 Creating the deceptive net impression that patients were required to pay for
10 their care regardless of income or ability to pay;

11 4.2.3 Unfairly violating the public policy established by the Charity Care Act that
12 requires hospitals to make every reasonable effort to screen patients for charity care eligibility prior
13 to attempting to collect payment from them;

14 4.2.4 Unfairly and deceptively failing to disclose to patients when it knew that
15 they are presumptively charity care qualified;

16 4.2.5 Unfairly and deceptively continuing to attempt to collect payment from
17 patients it knows are presumptively charity care qualified;

18 4.3 These acts or practices occurred in trade or commerce, specifically the provision of
19 and payment for medical services by Washington residents.

20 4.4 These practices affected the public interest because they affect numerous
21 Washington consumers' ability to access affordable health care. These practices constitute a pattern
22 of conduct which PeaceHealth has committed in the course of its business and of which there is a
23 real and substantial potential for repetition.

24 **V. PRAYER FOR RELIEF**

25 Wherefore, the State prays for the following relief:

26 5.1 That the Court enter the Consent Decree filed with this Complaint;

