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**STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT**

STATE OF WASHINGTON,

Plaintiff,

v.

PROVIDENCE HEALTH & SERVICES-
WASHINGTON; SWEDISH HEALTH
SERVICES; SWEDISH EDMONDS;
KADLEC REGIONAL MEDICAL
CENTER; OPTIMUM OUTCOMES, INC.;
and HARRIS & HARRIS, LTD.,

Defendants.

NO. 22-2-01754-6 SEA

SECOND AMENDED COMPLAINT
FOR INJUNCTIVE AND OTHER
RELIEF UNDER THE CONSUMER
PROTECTION ACT, RCW 19.86, AND
THE COLLECTION AGENCY ACT,
RCW 19.16

COMES NOW PLAINTIFF, State of Washington, by and through its attorneys Robert W. Ferguson, Attorney General, and Assistant Attorneys General Audrey Udashen, Will O’Connor, Aileen Tsao, Matthew Geyman, and Michael Bradley, and brings this action against Providence Health & Services Washington, Swedish Health Services and Swedish Edmonds (Swedish), Kadlec Regional Medical Center (Kadlec), and Optimum Outcomes, Inc., and Harris & Harris, Ltd., alleging as follows on information and belief:

I. INTRODUCTION

1.1 Providence, along with its Washington affiliates, Swedish and Kadlec (collectively Providence), is a large nonprofit health system with a stated mission of serving the

1 poor and vulnerable.¹ In Washington alone, Providence operates 14 hospitals, many of which
2 serve as safety net providers in communities across the state. Despite its mission, for years,
3 Providence has engaged in unfair and deceptive practices that prevent many of the most
4 vulnerable members of the communities it claims to serve from accessing free and reduced cost
5 charity care. Though it has a legal obligation to screen patients for charity care eligibility prior
6 to attempting to collect payment from them, Providence failed to develop adequate systems for
7 identifying charity care patients. Rather than screening patients for charity care eligibility,
8 Providence trains and encourages its agents to create the impression that all of its patients are
9 obligated to pay for their care regardless of their income level. Even when Providence identifies
10 charity care qualified patients, it sends many of their accounts to Debt Collectors in hopes that
11 it can extract some payment from patients Providence knows cannot afford to pay. In the words
12 of one of its own employees, Providence sends “the poor to bad debt,” while at the same time
13 paying lavish compensation to its executives and receiving tax benefits based on its nonprofit
14 status.

15 1.2 Providence’s obligation to promote access to affordable care for the poor and
16 vulnerable does not derive merely from its mission or good will. Washington law requires it.
17 The Charity Care Act, RCW 70.170, mandates that all Washington hospitals make free and
18 reduced-cost charity care accessible to indigent patients, which includes patients with household
19 income at or below 200% of the federal poverty level (FPL) (e.g., currently \$ 55,500 for a family
20 of four).

21 1.3 Providence engages in practices that obscure the availability of charity care and
22 that convey the deceptive net impression that patients have no option but to pay for their care

24 ¹ See Providence’s website, “Our Mission,” available at <https://www.providence.org/providence?state=WA> (last visited August 8, 2022); Swedish’s website, “Our Values,”
25 <https://www.swedish.org/about/overview/mission-outreach> (last visited August 8, 2022); Kadlec’s
26 website, “Community Support,” <https://www.kadlec.org/community/community-support> (last visited August 8, 2022).

1 regardless of their income level. First, Providence fails to provide meaningful notice of the
2 availability of charity care to patients during the registration and admission process. Next,
3 Providence trains its staff to attempt to collect payment from patients by identifying the amount
4 patients owe and asking them “*how would you like to pay that today?*” Internal training materials
5 Providence distributed to staff explain that they should use this scripting so that patients know
6 “*payment is expected.*” Intensifying its efforts to persuade patients to pay for their care even
7 further, Providence encourages its staff to exhaust all other collection options, including
8 attempting to persuade patients to (i) pay in full; (ii) pay half of the amount they owe; or,
9 (iii) enter a payment plan before providing patients with information about the availability of
10 charity care. In its final effort to pressure patients to pay for their care, at the end of its billing
11 cycle Providence sends patients a final statement which conveys the deceptive impression that
12 it may send the patients’ account to a third-party debt collection agency (Debt Collector) who
13 could damage the patient’s credit if the patient does not pay immediately. However, Debt
14 Collectors are barred by law from engaging in any credit reporting for another seven months
15 from the time this final statement is sent.

16 1.4 In order to make charity care accessible to low-income patients, the Charity Care
17 Act requires hospitals to screen patients to determine if there is any private or public insurance
18 available to pay for their care and to determine if they are eligible for charity care prior to
19 attempting to collect payment from patients. RCW 70.170.060(10). This screening, referred to
20 as an “initial determination of sponsorship status,” must occur at or near the time of the patient’s
21 admission. WAC 246-453-020(1)(b). Disregarding these requirements, Providence only trains
22 its staff to screen patients to identify any third-party payment sources from which Providence
23 can draw reimbursement, not to determine their eligibility for charity care. Without a process to
24 identify charity care eligible patients, Providence engages in the aggressive collection attempts
25 described above regardless of patients’ ability to pay and only suspends these collection attempts
26 if patients request information about charity care or specifically articulate a financial hardship.

1 This practice upends the duties imposed by the law.

2 1.5 Although Providence utilizes a sophisticated tool to identify unpaid accounts
3 associated with potentially charity care qualified patients before sending these accounts to Debt
4 Collectors, it typically fails to inform patients when they are identified by the tool as charity care
5 qualified. By failing to disclose to patients when it knows that they are charity care eligible,
6 Providence prevents patients from using the knowledge of their charity care eligibility to request
7 charity care on other outstanding accounts, for future care, or for family members.²

8 1.6 Worse yet, even when Providence knew that patients were charity care qualified
9 it still sent them to Debt Collectors, including patients it knew had income between 151-200%
10 FPL and patients enrolled in Medicaid. Indeed, from 2018 to the present, Providence sent 44,301
11 accounts, with outstanding charges of \$476,994,691, of patients Providence knew had income
12 between 151-200% FPL to Debt Collectors. In the same time frame, Providence assigned 10,483
13 accounts, with \$22,484,823 in charges outstanding, of Medicaid enrollees to Debt Collectors

14 1.7 Providence's practices subjected some of the most low-income and vulnerable
15 Washingtonians to aggressive attempts to collect payment by Debt Collectors. These collection
16 attempts were wildly successful. From 2018 to the present Providence collected \$4,460,658 from
17 patients either identified as having income between 151-200% FPL or who were enrolled in
18 Medicaid through its Debt Collectors. In spite of multiple warnings from staff from as early as
19 2019 that it was sending low-income patients to Debt Collectors, Providence continued to send
20 low-income patients to Debt Collectors until March 2022, after the above captioned case was
21 filed.

22 1.8 Finally, throughout 2020 and 2021 Providence and its Debt Collectors, Optimum
23

24
25 ² In a *de minimis* number of cases where patients make payments to Providence after they are
26 identified as potentially charity care qualified but before their accounts are referred to Debt Collectors,
Providence notifies patients that they are potentially charity care qualified and gives them an opportunity
to apply for a refund.

1 Outcomes, Inc. (Optimum) and Harris & Harris, Ltd. (Harris & Harris), sent collection letters to
2 Providence's patients that failed to include mandatory written disclosures informing patients of
3 the availability of charity care and of their rights to request information about their hospital debts,
4 as required under the Collection Agency Act, RCW 19.16.250(28) & (29). Each of these
5 collection letters was a *per se* violation of the Consumer Protection Act. RCW 19.16.440; RCW
6 19.86.020.

7 1.9 Providence's acts and practices exploit the power and knowledge imbalance
8 between Providence and its patients for its own financial gain. While Providence is fully aware
9 of its charity care obligations to patients, many of its low-income patients are not. Without an
10 understanding of their charity care rights, Providence's patients may pay medical bills that are
11 eligible for charity care or defer necessary care out of fear of the high cost of hospital care.

12 II. JURISDICTION AND VENUE

13 2.1 This Complaint is filed and these proceedings are instituted under the provisions
14 of the Consumer Protection Act, RCW 19.86, and the Collection Agency Act, RCW 19.16.

15 2.2 Venue is proper in King County pursuant to RCW 4.12.020 and RCW 4.12.025
16 because the violations alleged in this Complaint were and are being committed in whole or in part
17 in King County, and Defendants reside in whole or in part in King County.

18 2.3 The violations alleged in this Complaint are injurious to the public interest.

19 2.4 The Court has jurisdiction over this matter under the provisions of the Consumer
20 Protection Act, RCW 19.86, and the Collection Agency Act, RCW 19.16.

21 III. PARTIES

22 A. Plaintiff.

23 3.1 Plaintiff is the Attorney General of the State of Washington.

24 3.2 The Attorney General is authorized to bring this action and to seek restitution,
25 injunctive relief, and civil penalties pursuant to RCW 19.86.080, RCW 19.86.140, RCW
26 19.16.440, and RCW 19.16.460.

1 **B. Defendants.**

2 3.3 Providence Health & Services Washington is a tax-exempt nonprofit corporation
3 with its principal place of business in King County, Washington. It owns and operates eight
4 nonprofit hospitals in Washington consisting of Providence Centralia Hospital in Centralia,
5 Providence St. Joseph Hospital in Chewelah, Providence Mount Carmel Hospital in Colville,
6 Providence Regional Medical Center in Everett, Providence St. Peter Hospital in Olympia,
7 Providence Holy Family Hospital in Spokane, Providence Sacred Heart Medical Center in
8 Spokane, and Providence St. Mary Medical Center in Walla Walla.

9 3.4 Swedish Health Services is a tax-exempt nonprofit corporation with its principal
10 place of business in King County, Washington. It owns and operates four nonprofit hospitals in
11 Washington located in Seattle (First Hill, Cherry Hill, Ballard), and Issaquah, all of which are
12 affiliated with Providence Health & Services Washington.

13 3.5 Swedish Edmonds is a tax-exempt nonprofit corporation with its principal place
14 of business in Snohomish County, Washington. It owns and operates Swedish Edmonds, formerly
15 known as Stevens Hospital, in Edmonds. Although separately incorporated, Swedish Edmonds is
16 part of Swedish Health Services (collectively, Swedish), and is also affiliated with Providence
17 Health & Services Washington.

18 3.6 Kadlec Regional Medical Center is a tax-exempt nonprofit corporation with its
19 principal place of business in Benton County, Washington. It owns and operates Kadlec Regional
20 Medical Center (Kadlec), in Richland, and is also affiliated with Providence Health & Services
21 Washington.

22 3.7 All of these Providence and Providence-affiliated hospitals in Washington
23 (hereafter collectively referred to as Providence) are part of Providence St. Joseph Health, a
24 national, tax-exempt, nonprofit health system based in King County, Washington.

25 3.8 Optimum Outcomes, Inc. (Optimum) is a Washington-licensed collection agency
26 that operates in Washington and other states throughout the country and is headquartered in

1 Raleigh, North Carolina. Optimum has been a licensed Washington collection agency at all times
2 material hereto.

3 3.9 Harris & Harris, Ltd. (Harris & Harris) is a Washington-licensed collection agency
4 that operates in Washington and other states throughout the country and is headquartered in
5 Chicago, Illinois. Harris & Harris has been a licensed Washington collection agency at all times
6 material hereto.

7 IV. FACTS

8 A. Washington's Charity Care Act.

9 4.1 In 1989, the Legislature enacted the Charity Care Act, RCW 70.170, mandating that
10 all Washington hospitals must provide charity care. The Legislature found that "rising health care
11 costs and access to health care services are of vital concern to the people of this state," making it
12 "essential that strategies be explored that moderate health care costs and promote access to health
13 care services." RCW 70.170.010(2). Because "access to health care is among the state's goals and
14 the provision of such care should be among the purposes of health care providers and facilities," the
15 Legislature called for the establishment of "charity care requirements" for all hospitals to ensure
16 access to necessary hospital care. RCW 70.170.010(3).

17 4.2 The Charity Care Act requires Washington hospitals to make free and reduced-cost
18 charity care available to low-income patients. RCW 70.170.060. The Act and its implementing
19 regulations (collectively, the Charity Care Act or the Act) require Washington hospitals to provide
20 charity care to all "indigent" patients, which is defined as all patients with household income at or
21 below 200% of the federal poverty level (FPL). RCW 70.170.060(5) (requiring charity care for full
22 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).³ This charity care obligation extends
2 to all “medically necessary hospital health care.” RCW 70.170.020(4).⁴

3 4.3 Importantly, the Legislature’s charity care mandate is not limited to uninsured
4 patients, but also includes low-income insured patients to the extent they have out-of-pocket
5 responsibilities not covered by insurance. RCW 70.170.020 (charity care applies “to the extent that
6 the persons are unable to pay for the care or to pay deductibles or coinsurance amounts required by
7 a third-party payer”); WAC 246-453-010(4) (“indigent persons” covered by charity care include
8 “patients who have exhausted any third-party sources, including Medicare and Medicaid, and
9 whose income is equal to or below 200%” FPL”).

10 **B. Providence trains its staff to use collection tactics that create the deceptive net**
11 **impression that all patients must pay for their care regardless of their income level.**

12 4.4 Providence has trained its staff to collect payment from patients using methods
13 that obscure the availability of charity care. Rather than meaningfully disclosing the availability
14 of charity care before attempting to collect payment from patients, Providence gives patients the
15 deceptive impression that they must pay the full requested amount for their care immediately
16 regardless of their ability to pay.

17 4.5 Beginning in 2018, Providence rolled out a number of initiatives aimed at
18 dramatically increasing the amount of payments it collects directly from patients. These initiatives
19 were known collectively as “RevUp.”

20 4.6 McKinsey & Company (McKinsey), an international consulting firm, assisted
21 Providence in designing and implementing RevUp. In 2019, McKinsey was Providence’s highest
22 paid independent contractor, receiving over \$45 million from Providence for its consulting work.

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24
25 ³ Under 2022 poverty guidelines, 100% FPL and 200% FPL for a four-person household are
26 incomes of \$27,750 and \$55,500 per year, respectively. See <https://aspe.hhs.gov/poverty-guidelines>.

⁴ The terms “charity care” and “financial assistance” are used interchangeably in this Complaint.

1 4.7 As part of RevUp, Providence distributed training and scripting materials to all
2 staff who directly interact with patients (scheduling, registration staff, call center staff, and
3 financial counselors). These materials direct staff to attempt to collect payment during every
4 interaction with patients, instructing staff to “*Ask Every Patient Every Time*” to pay their hospital
5 bills. These documents demonstrate Providence’s clear expectation that its staff should engage in
6 robust payment collection at every opportunity regardless of a patient’s ability to pay:
7 “Collections while providing excellent service is your job,” and “it is an expectation that an ask
8 for payment is made.”

9 1. ***Providence trains its staff to ask patients “how would you like to pay today?”***
10 ***to impress on patients that payment is expected.***

11 4.8 Providence trains its staff to use specific collection phrasing to give patients the
12 deceptive impression that immediate payment in full for their care is expected.

13 4.9 Providence trains its staff to identify the amount owed by the patient and then ask
14 the patient *how* they want to pay that amount *today*.

15 4.10 It is clear that Providence specifically selected this phrasing to eliminate any
16 notion that patients could delay, avoid, or defer payment or seek charity care to which the patient
17 is entitled.


18 4.11 The RevUp training materials illustrate how Providence imparted this collection
19 scripting to its staff. The RevUp materials direct staff to begin their collection attempts by
20 explaining how they determined the amount the patient owed and stating the amount due. The
21 materials then direct staff to inform the patient that the hospital accepts “cash, checks, credit/debit
22 cards, flex spending accounts, and health saving accounts,” followed by “*How would you like to*
23 *pay that today?*”

1 4.12 Providence’s training materials explain that it selected this phrasing because it
2 gives patients the net impression that “*payment is expected.*” The materials stress that staff should
3 not ask patients “*if* they will pay,” if they would *like* to pay, or otherwise use language that could
4 suggest that delaying payment is an option. Instead, staff should always ask: “*how* they will pay.”
5 Providence trains its staff to use this scripting during all collection and payment conversations
6 with patients, including during registration and at other points prior to a patient receiving
7 treatment.

8 4.13 The presenter notes from one of the RevUp trainings further direct the trainer to

9

10 **How to Ask**

11 


12 **Explain how the amount was determined** “Mr. Patient, we verified your insurance coverage and benefits with your insurance company.”

13

14 **State the amount due** “Based on the services provided and your benefits the **Estimated Liability Due of \$\$\$.**” (Copay, Deductible, or Coinsurance)

15

16 **List accepted payment methods** “We accept **Cash, Checks, Credit/Debit Cards, Flex Spending Accounts, and Health Savings Accounts.**”

17 

18 **Ask the question in a way that payment is expected** “*How* would you like to pay that *today?*”

19

20

21 inform Providence’s staff that they should “avoid asking questions that allow the pt [patient] to
22 assume there is an option NOT to pay.” The notes direct the trainer to explain the importance of
23 asking *how* patient will pay by explaining that “[w]ould you Mind: is a weak phrase, it ask[s] the
24 patient to say, ‘No’ easier. Ask **HOW** the patient will pay, ‘Your expected patient portion today
25 is your \$1,000 deductible. We accept cash, check, or credit cards, which method will [you] be
26

1 using today?’’

2 4.14 The former Director of Providence’s Patient Access Department, which handles
3 patient registration, testified that the staff she oversaw followed this scripting when collecting
4 payment from patients before treatment. She confirmed that when collecting copays from patients
5 during registration, her staff was trained to “inform the patient that they -- that their insurance
6 company did require a co-payment, and we would ask how they would want to pay that today.”

7 4.15 Similarly, the Executive Director of Customer Experience at Providence, charged
8 with oversight of call center staff, admitted that those staff members were trained to use the same
9 suggestive language when speaking to patients about their hospital bills. She confirmed that: “the
10 training was how would you like to pay that? I see you have a balance owing of a hundred dollars,
11 how would [you] like to pay that today?”

12 4.16 Providence’s collection scripting promotes the deceptive net impression that all
13 patients are required to immediately pay for any out-of-pocket expenses associated with their care
14 when, in reality, some or all of these expenses could be covered by charity care.

15 **2. Providence does not train staff to provide a meaningful charity care disclosure**
16 **prior to its deceptive collection demands.**

17 4.17 Providence does not provide patients with a robust charity care disclosure prior to
18 these payment demands, heightening the deceptive net impression that patients must pay for their
19 care immediately.

20 4.18 The only written information Providence proactively gives patients during
21 registration regarding the availability of charity care is buried in broad-ranging and dense forms,
22 which, upon information and belief, staff members review with patients in a rushed, cursory
23 manner if at all.

24 4.19 At Swedish, this form is known as the Conditions of Admission (COA). The COA
25 is a single-page document with condensed text covering everything from a patient’s consent to
26 treatment, to Swedish disclaiming responsibility for a patient’s personal belongings, to the

1 disclosure of medical information.

2 4.20 At Providence's other Washington hospitals this form is known as the Consent for
3 Service, and covers a similar swath of broad-ranging topics.

4 4.21 Though Swedish's COA directs registration staff to offer all patients a brochure
5 on its charity care program, staff only provide patients with this brochure if patients specifically
6 request the brochure.

7 4.22 Similarly, Providence's other Washington hospitals only offer or provide a
8 brochure on charity care to patients if the patient specifically requests one or if the patient
9 articulates an inability to pay for their care.

10 4.23 Upon information and belief, many Providence facilities do not make charity care
11 brochures and other material specific to charity care readily available in areas where patients
12 register for treatment or other public areas of the hospital.

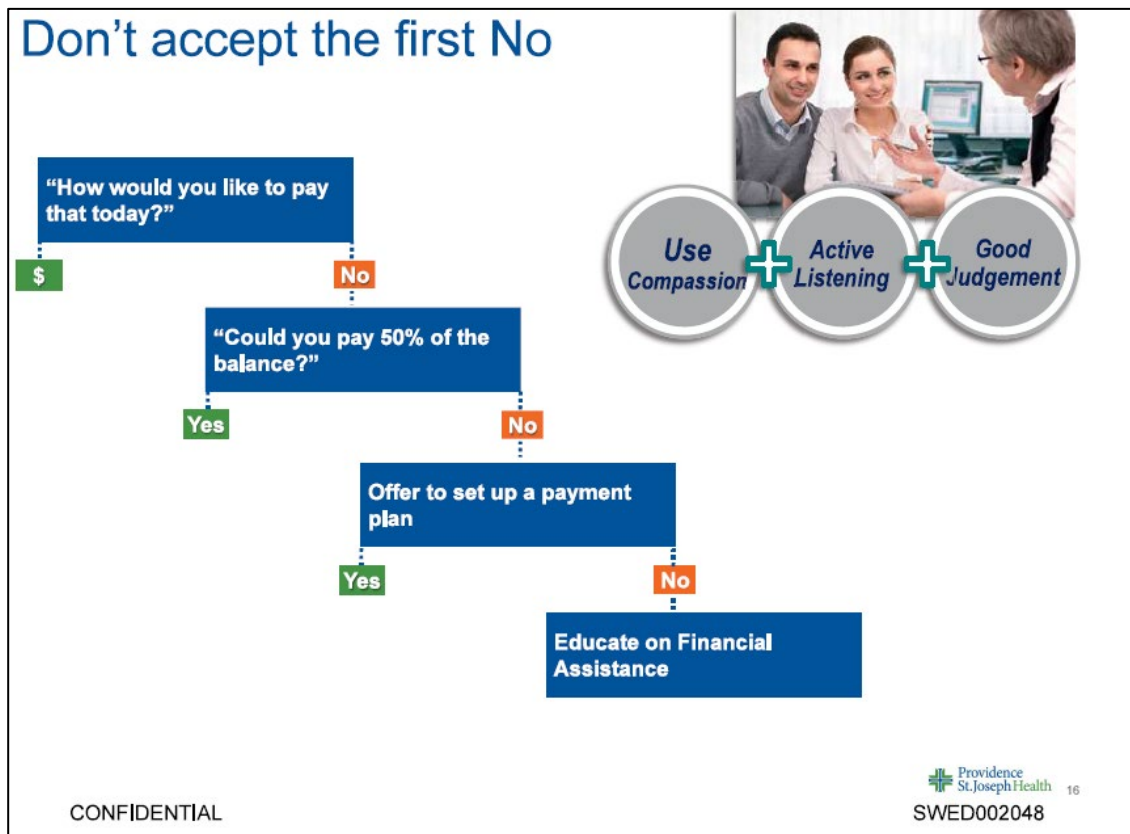
13 4.24 To the extent signs regarding the availability of charity care are posted in
14 Providence hospitals, these signs are often placed in areas that could easily be missed by patients
15 or are drowned out by other postings and notices.

16 4.25 Providence's fleeting reference to the availability of charity care in the context of
17 its dense and broad-ranging admission forms, which are not routinely provided to patients, along
18 with a notice of its charity care program posted among a swarm of other notices at registration
19 areas, is not sufficient to put patients on notice of their charity care rights before being subject to
20 Providence's aggressive collection attempts described above.

21 **3. Providence trains its staff to continue to attempt to collect even after patients**
22 **decline to pay.**

23 4.26 Providence trains its staff to continue to pressure patients to pay even after patients
24 rebuff its initial collection attempt.

1 4.27 A collection training from 2018 details this approach. A slide from this training,
2 titled “*Don’t Accept the first No,*” describes the sequence of payment options staff should present
3 to patients before providing information about charity care. This sequence includes: (1) payment
4 in full; (2) payment of 50% of their balance upfront; and (3) a payment plan. Only after each of
5 these options are presented and declined by patients, are staff instructed to provide patients with
6 information on charity care:



21 4.28 The 2018 training included numerous “registration scenarios” which demonstrated
22 how staff could implement these collection techniques. One of these scenarios relates to a patient
23 in the emergency department who responds to a request for a \$200 copay by asking: “Can you
24 just bill me? I don’t have the money to pay today.” The training directs staff to respond as follows:

25 “Would you be able to pay **half** of the **balance today**, **\$100** to reduce the amount
26 that you have to worry about later?”
If NO,

1 “Would you like me to indicate that you will be paying the balance in full when
2 you receive the bill?”

3 *If NO,*

4 “We offer **6 months zero-interest payment plans**. Would you like me to document
5 that you would prefer to have a representative call you to set up a monthly payment
6 plan?”

7 *If Patient states that they will not be able to afford this,*

8 “We do offer financial assistance for those patients who do not have the ability to
9 pay. Would you like an application?”

10 4.29 Another scenario from this training involves registering a patient at their bedside
11 in the emergency department and requesting payment of a \$275 copay. In this scenario, the patient
12 responds: “I thought that you guys were nonprofit.” The training materials direct staff members
13 to respond to as follows:

14 We are a nonprofit.

15 However, we want to inform our patients of their balances as soon as possible and
16 help the hospital invest in patient care by reducing billing costs.

17 **How** would you like to take care of this **today**?

- 18 • If **unable** to pay in full, ask for a percentage/deposit amount.
- 19 • If **unable**, offer to document that they will pay in full when they receive the
20 bill.
- 21 • If **unable**, offer to document that they would like to be contacted about a **6
22 months zero-interest payment plan**.

23 The training materials do not direct staff to provide any information about charity care in this
24 scenario.

25 4.30 Providence’s Executive Director of Customer Experience confirmed that staff in
26 Providence’s call center, who field calls from patients who have questions about their hospital
bills, present patients’ payment options in the same manner. In a September 2021 deposition, the
Customer Experience Director testified:

[I]f the patient said they couldn’t pay the full amount, let’s say they owed a hundred
dollars, we would say that’s okay, are you able to make that in two payments? So,
that was pretty much the training was how would you like to pay that? I see you
have a balance owing of a hundred dollars, how would like to pay that today? And
if the patient said I can’t pay that today, they would say, that’s okay we’re here to
help you. Are you able to make that in two payments? Could you pay \$50 today
and we could collect the remaining \$50 next month....”

She went on to testify that if a patient could not pay \$50, then staff members are “encouraged to

1 continue to go down the path of extending out the payment plan further.” The only circumstance
2 in which Providence trains staff to suspend collections and provide patients with information
3 about charity care is when a patient affirmatively indicates that they have a financial hardship or
4 specifically requests information about financial assistance.

5 4.31 In sum, Providence’s collection measures are aggressive. Providence trains staff
6 to use scripts designed to give patients the impression that they are required to pay for their care
7 immediately and to make multiple attempts to collect without meaningfully disclosing the
8 availability of charity care until those collection attempts are exhausted even when told that the
9 patient is unable to pay.

10 4.32 These aggressive collection measures capitalize on the power and knowledge
11 imbalance between Providence and its patients. Providence is fully aware of the availability of
12 charity care. Many of Providence’s low-income patients, however, are not.

13 **C. Through RevUp, Providence has developed a corporate culture that elevates**
14 **collections over creating access to charity care.**

15 4.33 Providence takes additional measures to reinforce pressure on staff to collect as
16 much money as possible from patients, further fostering an aggressive collection culture among
17 its staff. For example, Providence evaluates staff interactions with patients based on how well the
18 staff members followed the collection script addressed above.

19 4.34 In order to enhance its collections from patients through RevUp, Providence sets
20 aggressive revenue targets for all teams that engage in patient cash collection, including the
21 Patient Access team, the call center staff, and the financial counselors.

22 4.35 As part of the RevUp initiative, all employee teams that generate revenue for
23 Providence, including teams that collect directly from patients, have collection targets. Teams
24 meet weekly in what Providence refers to as “huddles” which are intended to “cultivate a culture
25 of collections and promote accountability.” Charts that indicate each team’s progress toward their
26 revenue goal are posted prominently in communal employee spaces. Individual team members’

1 collections are part of their annual review and managers face criticism if their teams do not meet
2 collection targets under RevUp.

3 4.36 Demonstrating the extent to which the RevUp ethos permeated Providence’s
4 corporate culture, for Halloween in 2018 one of the employees in Providence’s call center dressed
5 up in a wrestling costume and went by the moniker “RevUp Ricky.” Managers in Providence’s
6 Revenue Cycle department forwarded pictures of this and other revenue enhancement-themed
7 costumes to employees throughout Providence.

8 4.37 In another Halloween email, Providence’s Executive Director of Customer
9 Experience included a picture of a Providence employee holding a large dollar sign. The dollar
10 sign had the word “how” written on it – a clear reference to Providence’s direction to its staff to
11 ask patients *how* they would like to pay. Below the word “how,” superimposed on the dollar sign,
12 was “50%” – a reference to Providence’s requirement that staff ask patients who cannot pay in



25 full to pay 50% of their amount owing. The Customer Experience Director wrote: “I promised
26 that we’d send pictures out so I took these at our Self-Pay “Rev Up” huddle this morning... Love

1 the positive energy and focus on increasing collections!” This email was sent to managers and
2 directors in Providence’s Revenue Cycle department and its McKinsey consultants.

3 **D. Providence proactively screens patients to identify payment sources from which it**
4 **can draw reimbursement, but unfairly fails to conduct any similar screening to**
5 **determine patients’ eligibility for charity care.**

6 4.38 Because it is in Providence’s financial interest to identify sources of payment for
7 patient’s care, it goes to great lengths to screen patients to determine if they have or are eligible
8 for insurance or other third-party payment sources before it attempts to collect directly from
9 patients. Meanwhile, Providence conducts no similar screening to determine whether patients
10 qualify for charity care as required by Washington law.

11 4.39 The Charity Care Act requires hospitals to “make every reasonable effort” to
12 screen patients for “sponsorship status,” both to identify any available private or public insurance
13 (e.g., commercial insurance, Medicare, Medicaid) and to determine if the patient may qualify for
14 charity care, before attempting to collect from patients. “Sponsorship status” under the Act means
15 both insurance status and eligibility for charity care. RCW 70.170.060(10).

16 4.40 Specifically, RCW 70.170.060(10) requires hospitals to “make every reasonable
17 effort to determine . . . (a) The existence or nonexistence of private or public sponsorship which
18 might cover in full or part the charges for care rendered by the hospital to a patient; (b) The annual
19 family income of the patient as classified under the federal poverty income guidelines . . . ; and
20 (c) The eligibility of the patient for charity care.”

21 4.41 The Charity Care Act requires that this “initial determination of sponsorship
22 status,” including the hospital’s assessment of the patient’s eligibility for charity care, “*shall*
23 precede collection efforts directed at the patient.” RCW 70.170.060(10)(c) (emphasis added).
24 This initial determination of sponsorship status must be completed at the time of admission or as
25 soon as possible following the initiation of services to the patient. WAC 246-453-020(1)(b). If a
26 patient appears to be eligible for charity care based on the initial determination of sponsorship
status, hospitals must suspend any attempt to collect payment from the patient and give them a

1 reasonable opportunity to apply for charity care. WAC 246-453-020(1)(c).

2 4.42 The Charity Care Act defines collection efforts broadly to include “any demand
3 for payment or transmission of account documents or information which is not clearly identified
4 as being intended solely for the purpose of transmitting information to the responsible party[.]”
5 WAC 246-453-020(1)(a).

6 4.43 This determination of patients’ family income and eligibility for charity care can
7 be achieved very simply. Providence need only ask patients to identify their income and family
8 size to determine where they fall under the federal poverty levels. Indeed, as discussed in more
9 detail below, Providence already routinely asks patients these questions when screening them for
10 Medicaid eligibility.

11 ***1. Screening during registration.***

12 4.44 Providence conducts an in-depth screening during registration, before requesting
13 payment. However, if this screening reveals that the patient has health insurance, Providence stops
14 the screening process and attempts to collect any out-of-pocket amounts the patient owes, even
15 though many of its insured patients are eligible for charity care for the patient responsibility
16 portion of their care based on their income.

17 4.45 Providence requests an extensive amount of personal information from patients
18 during registration. Providence asks patients to identify their name, date of birth, address, contact
19 information, Social Security number, religious preference, race and ethnicity, marital status,
20 whether they need an interpreter, their primary language, information about their employer,
21 emergency contact information and family members contact information, and whether they have
22 an advanced directive. Depending on the nature of the injury, Providence also trains registration
23 staff to ask questions to determine if additional payment sources exist, such as worker’s
24 compensation coverage for workplace injuries or auto insurance for patients involved in car
25 accidents.

26 4.46 The abundance of detailed information Providence gathers from patients during

1 registration, including information that relates directly to patients' potential eligibility for charity
2 care, such as employment, marital, and insurance status, demonstrates the ease with which
3 Providence could screen patients for charity care eligibility when it is already screening patients
4 to identify potential payment sources.

5 4.47 However, rather than screening all patients for charity care prior to attempting to
6 collect, as required by Washington law, Providence trains its staff to attempt to collect from
7 patients and only suspend collections when patients affirmatively request information about
8 charity care or specifically articulate a financial hardship.

9 4.48 Providence's practices unfairly shift the burden that Washington law places
10 squarely on hospitals onto its low-income patients to self-identify as charity care eligible.
11 However, patients in general, and low-income patients especially, are likely unfamiliar with
12 hospitals' charity care obligations.

13 ***2. Financial counselor screening.***

14 4.49 Providence trains financial counselors and patient financial advocates to screen
15 uninsured patients to identify any coverage options patients may qualify for, including Medicaid
16 (Medicaid Screening). Despite having enough information to make a charity care determination
17 at this time, Providence trains staff to attempt to collect payment from patients before screening
18 them for charity care eligibility when they do not qualify for Medicaid or other coverage options.

19 4.50 When meeting with uninsured patients, Providence's financial counselors/patient
20 financial advocates ask patients a series of questions to determine if they qualify for Medicaid,
21 subsidized insurance through the Washington Health Benefit Exchange, COBRA coverage,
22 coverage through auto insurance, and other options. During this screening, financial counselors
23 ask uninsured patients questions to determine their income and household size because many of
24 the programs included in the Medicaid Screening are income-based.

25 4.51 Once financial counselors know a patient's income and family size for purposes
26 of Medicaid Screening, they could determine the patient's charity care eligibility, as required by

1 law, but they are specifically trained by Providence not to. Instead, if a patient does not qualify
2 for any coverage options, Providence trains staff to aggressively collect payment from them
3 following the same sequence of payment options described above, pressuring patients to: (i) pay
4 in full, (ii) pay a deposit or a percentage of their out-of-pocket responsibilities, (iii) enter a short-
5 term payment plan, and if all else fails, (iv) then only presenting information about financial
6 assistance as a last resort.

7 **E. Even when Providence knows patients are charity care eligible, it unfairly and**
8 **deceptively fails to disclose this vital information to them.**

9 4.52 Providence gathers significant information about patients' ability to pay for their
10 care post-treatment, but does not share this information with patients.

11 4.53 Providence sends patients' bills for their care at 30, 60, and 90 days post-treatment,
12 and a final statement around day 120 post-treatment, called a pre-collect letter, in addition to
13 making collection phone calls. If the patient does not pay after the pre-collect letter and does not
14 qualify for presumptive charity care as described below, Providence sends the patient's account
15 to a Debt Collector.

16 4.54 Providence utilizes sophisticated analytical tools during its billing and collection
17 process that screen patients to predict their income, likelihood of paying their hospital bills, and
18 eligibility for charity care. These tools allow Providence to prioritize its collection efforts to
19 increase collection revenue and to make cost-benefit decisions about which accounts to write off
20 to charity care and which to send to Debt Collectors.

21 4.55 Since 2018, Providence has used tools offered by Experian, a credit reporting
22 agency, which predict patients' likelihood of paying their bill and eligibility for charity care.

23 ***1. Propensity to pay screening.***

24 4.56 To increase the efficiency of its collection efforts, Providence obtains a
25 "propensity to pay" score at the first indication that a patient may not pay their bill (roughly day
26 45 in the billing cycle).

1 4.57 Experian’s marketing materials explain that “a collection strategy that utilizes
2 Experian Health’s Propensity to Pay scoring increases the efficiency of collection efforts ... by
3 optimizing the order of accounts on which collection actions are taken,” and “Payment Propensity
4 can maximize cash flow from limited collection resources.”

5 4.58 The propensity to pay tool evaluates accounts to determine whether patients have
6 a “low,” “medium” or “high” propensity to pay based on publicly available financial data such as
7 credit history, combined with historical patient payment information from hospitals around the
8 country.

9 4.59 Providence uses the propensity to pay scoring to strategize which patients to call
10 regarding outstanding accounts. In a September 2021 deposition, Providence’s Executive Director
11 of Customer Experience testified that Providence calls high propensity to pay patients because it
12 believes they have the “ability to pay” and does not call low propensity to pay patients because it
13 believes that they do not have the ability to pay and will likely qualify for presumptive charity
14 care.

15 4.60 Even though Providence knows that patients with low propensity to pay scores are
16 likely charity care qualified as early as 45 days in the billing cycle, it takes no steps to inform
17 patients of their likely eligibility for charity care. Instead, Providence continues to attempt to
18 collect payment from those patients, including by sending bills at 60 and 90 days and a pre-collect
19 letter, before it evaluates them for presumptive charity care as described below or sends their
20 accounts to Debt Collectors.

21 **2. *Presumptive charity care screening.***

22 4.61 Once Providence exhausts all of its collection efforts, its last step before sending
23 an outstanding account to a Debt Collector is to use Experian’s income and family size tools to
24 identify accounts associated with patients who are charity care qualified. Providence refers to
25 Experian’s income and family size tools as a presumptive charity care tool and to charity care
26 extended through the use of these tools as presumptive charity care.

1 4.62 After sending patients three bills and a final statement, if a patient account has an
2 outstanding balance, Providence sends the patients' account to Experian to determine the patients'
3 income and family size. Experian then returns to Providence the patient's estimated household
4 income as a percentage of FPL. Based on Experian's projection of the patient's family income,
5 Providence writes off certain accounts as presumptive charity care without requiring the patients
6 to submit a charity care application or provide proof of their income.

7 4.63 Upon information and belief, to estimate patients' income and family size,
8 Experian compares publicly available information about patients to a model it created that
9 aggregates income data provided in tens of thousands of previously submitted charity care
10 applications. Upon information and belief, Experian represents that its income model is reliable
11 and will correctly project patients' income 87% of the time.

12 4.64 Because Providence receives all the information needed by Experian to provide an
13 estimated income, namely the patient's name and address, at patient scheduling or registration, it
14 could use Experian's estimated income tool to identify charity care eligible patients prior to
15 attempting to collect payment (as is required by the Charity Care Act). Instead, Providence waits
16 until it has exhausted all opportunities to collect from patients before it screens them for charity
17 care eligibility.

18 4.65 Providence writes off certain unpaid accounts as presumptive charity care when
19 the estimated income tool identifies the patient as charity care qualified. Yet, Providence does not
20 notify most patients that they have been determined to be presumptively charity care qualified or
21 that it wrote-off their charges as charity care.⁵

22 4.66 Importantly, when Providence writes off an account to presumptive charity it
23

24 ⁵ Providence asserts that patients identified as presumptively charity care qualified who
25 previously made a partial payment on their account may be notified of this fact and encouraged to apply
26 for a refund of their payment. Upon information and belief, since Providence only runs severely
delinquent accounts through the presumptive charity care tool, very few partial payments are made on
accounts later identified as associated with presumptively charity care qualified consumers.

1 applies charity care only to the particular account that has run through its billing cycle. Providence
2 does not grant presumptive charity care on the patient's other accounts or on their family
3 members' accounts. Thus, if the patient or the patient's family members have other outstanding
4 accounts with Providence, it continues to attempt to collect on those accounts despite knowing
5 these patients are presumptively charity care qualified. Further, if the patient or a patient's family
6 member return to Providence for additional care after their account has been written off to
7 presumptive charity, then Providence attempts to collect payment for that care.

8 4.67 Providence's failure to notify patients of their qualification for presumptive charity
9 care is deceptive and unfairly furthers the unequal bargaining positions between Providence and
10 its low-income patients. If Providence informed patients of their presumptive charity care
11 eligibility, patients would be in a better position to request charity care on other outstanding
12 accounts or the next time they or a family member seek medical treatment.

13 4.68 Upon information and belief, low-income patients are more likely than higher-
14 income patients to forego future care based on past hospital bills. Thus, Providence's failure to
15 disclose to patients that they are presumptively charity care qualified may deter low-income
16 patients who are concerned about the high cost of hospital treatment from seeking necessary care
17 in the future.

18 4.69 Providence must disclose to patients when it knows that they are presumptively
19 charity care qualified, suspend its attempts to collect payment, and give them an opportunity to
20 apply for charity care, just as it would with patients identified as charity care eligible through
21 other avenues.

22 **F. Providence unfairly and deceptively sent the accounts of patients who it knew were**
23 **charity care eligible to Debt Collectors.**

24 4.70 Starting in September 2019, Providence significantly narrowed the category of
25 accounts it runs through the presumptive charity tool to include only uninsured patients. Based
26

1 on this change Providence now sends all accounts associated with insured patients that are
2 delinquent at the end of its billing cycle directly to Debt Collectors.

3 4.71 At the same time, Providence also stopped granting presumptive charity care on
4 patient accounts identified by Experian's PFC tool as associated with patients who have
5 household incomes between 151% and 200% FPL (despite these patients qualifying for charity
6 care) and now sends these accounts to Debt Collectors.

7 4.72 Internal Providence emails reveal that it chose to send insured patients and those
8 with incomes between 151-200% FPL to Debt Collectors because it believed these patients might
9 pay their bills if collection attempts continued. In a January 17, 2020 email, Providence's
10 Executive Director of Customer Experience explained that Providence narrowed its use of the
11 presumptive charity care tool because its charity care numbers were "spiking" and it believed
12 that patients with insurance, regardless of their income level, would potentially pay on their
13 account if their accounts were sent to collections. In the same email, the Director confirmed that
14 the changes to Providence's use of its presumptive tool had its desired impact of lowering charity
15 care "across all markets." Providence's Chief Revenue Cycle Officer testified that Providence
16 chose to exclude patients with insurance from presumptive charity care altogether because
17 patients' share of responsibility for payment for their care relative to their insurance carriers had
18 increased and Providence wished to collect these greater patient responsibility shares.

19 4.73 Providence represents that it stopped sending patients identified as having income
20 between 151-200% FPL to Debt Collectors in March 2022, after the State filed its initial
21 Complaint in this matter and sought for a preliminary injunction to stop this practice.

22 4.74 From 2019 to 2022, Providence and its affiliated Washington hospitals sent
23 40,607 accounts of 30,085 patients identified by the Experian tool as having income between
24
25
26

1 151-200% FPL to Debt Collectors. Collectively, these accounts had outstanding balances of
2 \$442,257,738.⁶

3 4.75 Providence failed to disclose to patients identified as having income between 151-
4 200% FPL that they were charity care eligible before sending them to Debt Collectors.

5 4.76 Providence's Debt Collectors attempted to collect payment from these patients by
6 sending them collection notices and making collection phone calls to them.

7 ***1. Collection from Medicaid enrollees.***

8 4.77 Most patients that qualify for Medicaid in Washington have income equal to or
9 less than 200% FPL, qualifying them for charity care under the Charity Care Act. As admitted by
10 Providence's Executive Director of Customer Experience: "if the patient is going to qualify for
11 Medicaid, they would probably also qualify for our financial assistance program." Indeed,
12 Providence and Swedish's own charity care policies explain that patients "who are eligible for
13 FPL-qualified programs such as Medicaid and other government-sponsored low-income
14 assistance programs, are deemed to be indigent." However, Providence excludes Medicaid
15 enrollees from its presumptive charity care screening because they are insured.

16 4.78 Medicaid enrollees may still need charity care for charges incurred before they
17 enrolled in Medicaid.⁷ For example, patients are often uninsured at the time of their Medicaid
18 enrollment, so they may be responsible for the full cost of their hospital care prior to their
19 enrollment in Medicaid.

20 4.79 Prior to RevUp, Providence's financial counselors reviewed whether Medicaid-
21 approved patients owed payment for treatment prior to their enrollment in Medicaid and typically
22

23 ⁶ Providence sent some patients identified as having income between 151-200% FPL to Debt
24 Collectors even before its 2019 changes to its use of the Experian tool. This included sending 3,694
25 accounts of patients identified as having income between 151-200% FPL to debt collectors in 2018.
These accounts had \$34,736,953 in outstanding charges.

26 ⁷ Retroactive Medicaid is granted in some circumstances but this only covers charges incurred in
the three months preceding the patient's Medicaid application.

1 manually wrote off any amounts owed because they knew the patients qualified for charity care.
2 However, Providence stopped this practice around the time it implemented RevUp and replaced
3 the financial counselors' analysis with a process that awarded presumptive charity care
4 exclusively through the Experian tool.

5 4.80 In late 2019, after Providence excluded insured patients from presumptive charity
6 care, Providence staff noticed and were alarmed that a large number of Medicaid patients were
7 being sent to Debt Collectors. Providence staff warned their leadership that Providence was
8 sending obviously charity care qualified patients to Debt Collectors. In a December 2019 email
9 to other high-level Providence staff, the Director of Financial Counseling and Assistance for
10 Providence's Pacific Northwest region (Financial Counseling Director) expressed her alarm over
11 this issue. The Financial Counseling Director expressed particular concern that many of the
12 accounts Providence was sending to bad debt were for treatment that Medicaid enrolled patients
13 received while they were uninsured:

14 I just want it made clear to our leadership that patients that would normally have been
15 eligible for charity care are going to bad debt and are now Medicaid Eligible... ***We are***
16 ***sending the poor to bad debt*** and not treating them the same as other patients that would
17 be uninsured for the days of admit prior to Medicaid Eligibility. I am trying to get a
18 leadership decision and make sure they are aware of the risk associated with sending these
19 patients [to] bad debt. (Emphasis added.)

20 4.81 Providence continued to send Medicaid enrollees to debt collectors for years after
21 receiving this notice.

22 4.82 From 2019 to 2022, Providence's Washington hospitals assigned 8,066 accounts
23 of Medicaid patients, with \$19,375,530 in charges outstanding, to Debt Collectors. These
24 accounts were associated with 5,869 individual Medicaid patients.⁸

25 4.83 Providence failed to disclose to Medicaid patients that they were charity care
26 eligible before sending them to Debt Collectors.

⁸ In 2018, Providence sent 2,417 accounts of 1,694 Medicaid enrollees to debt collectors, with \$3,109,293 in charges owing.

1 4.84 Providence's Debt Collectors attempted to collect payment from Medicaid
2 enrollees by sending them collection notices and making collection phone calls to them.

3 **G. Providence's pre-collect letter creates the deceptive net impression that negative
4 credit reporting and a lawsuit is imminent if patients do not immediately pay their
5 balance.**

6 4.85 After sending patients three statements at 30, 60, and 90 days post-treatment,
7 Providence sends a fourth and final notice to patients, referred to as a pre-collect letter, prior to
8 sending patients' accounts to a debt collector. Upon information and belief, the pre-collect letter
9 used by each of Providence's Washington hospitals contains the same or substantially similar
10 content.

11 4.86 Up until at least April 2020, Swedish's pre-collect letter contained the following
12 notice:

13 FINAL NOTICE – If you do not make arrangements to resolve your balance or pay
14 in full within 30 days, your account may be forwarded to a collection agency, which
15 may report your account to credit reporting agencies or initiate legal action.

16 4.87 After sending the pre-collect letter, Providence waits approximately 30 days
17 before assigning the patient's account to a debt collector if the account is not paid or the patient
18 fails to make alternative arrangements. Debt Collectors are barred from reporting delinquent
19 accounts related to medical debt to the credit reporting agencies for at least 180 days after
20 receiving the account.

21 4.88 The final notice in this version of Providence's pre-collect letter conveyed the
22 deceptive net impression that negative credit reporting was imminent if the patient did not pay.
23 However, based on the timing of Providence's billing cycle and statutory protections afforded to
24 Washington consumers, Debt Collectors are prohibited from reporting a patient's delinquent
25 account to credit reporting agencies for at least 210 days (almost seven months) after the patient
26 receives Providence's pre-collect letter.

1 **H. Providence and its Debt Collectors, Optimum and Harris & Harris, further violated**
2 **Washington law by failing to provide mandatory written disclosures about the**
3 **availability of charity care in collection notices sent to Providence’s patients.**

4 4.89 On September 16, 2019, Providence entered into a Collection Services Agreement
5 (CSA) with Optimum Outcomes, Inc., a nationwide debt collection agency based in Raleigh,
6 North Carolina, that specializes in collecting hospital debts.

7 4.90 The same day, September 16, 2019, Providence also entered into a CSA with
8 Harris & Harris, Ltd., a nationwide debt collection agency based in Chicago, Illinois, that also
9 specializes in collecting hospital debts.

10 4.91 Under the CSAs with Optimum and Harris & Harris, Providence authorized each
11 of them to act as Providence’s agent and instructed it to collect hospital debts on Providence’s
12 behalf. Providence reserved the right to suspend or cancel collection on any account at any time
13 for any reason or for no reason.

14 4.92 Providence also reserved under the CSA the right to audit Optimum’s and Harris
15 & Harris’s records relating to its collection of each hospital debt account, including the right to
16 examine collection letters and other correspondence between these two Debt Collectors and
17 consumers associated with the hospital accounts that Providence assigned to them for collection.

18 4.93 From 2019 to the present, Harris & Harris has collected hospital debts in
19 Providence’s name and on its behalf.

20 4.94 Likewise, from 2019-2021 Optimum also collected hospital debts in Providence’s
21 name and on its behalf.

22 4.95 Under Washington law, when a collection agency, such as Optimum and Harris &
23 Harris, collects hospital debts the collection agency is required to include with the first written
24 notice to the debtor a notice that the debtor may be eligible for charity care from the hospital,
25 together with the contact information for the hospital. RCW 19.16.250(29).

26 4.96 Washington law also requires that when a collection agency, such as Optimum and

1 Harris & Harris, collects hospital debts it must include with the first written notice a statement
2 informing the debtor of the debtor's right to request the hospital account number assigned to the
3 debt, date of last payment, and an itemized statement stating whether the patient was found
4 eligible for charity care, and, if so, the amount due after all charity care has been applied. RCW
5 19.16.250(28).

6 4.97 Optimum and Harris & Harris both violated these Washington hospital debt
7 collection laws by sending initial collection notices to Providence patients seeking to collect on
8 Providence accounts that failed to include these mandatory written disclosures regarding debtors'
9 potential eligibility for charity care and/or the hospital's contact information for debtors to request
10 information about their charity care rights.

11 4.98 In the CSA with Optimum, Providence required Optimum to inform debtors about
12 Providence's charity care program *only* if a debtor requested information about charity care or the
13 debtor indicated he or she was unable to pay due to financial circumstances, contradicting the
14 requirement from RCW 19.16.250(29) that debt collectors notify all debtors of the availability of
15 charity care in their initial collection notice.

16 4.99 In the CSA with Harris & Harris, Providence also required Harris & Harris to
17 provide debtors with a written description of Providence's charity care program and the name and
18 phone number of a contact person at Providence as required by Washington law.

19 4.100 In most if not all cases, however, Harris & Harris did not provide debtors with the
20 phone number of a contact person at Providence as required under the CSA, and it did not comply
21 with the requirements of RCW 19.16.250(29) as set forth above.

22 4.101 Through this conduct, Providence knowingly assisted, directed, controlled,
23 participated in, and/or approved of Optimum's and Harris & Harris's unlawful collection of
24 Providence's accounts, and Providence is both directly and vicariously liable, along with
25 Optimum and Harris & Harris, for these charity care disclosure violations.
26

1 **I. Providence extracted millions from its low-income patients through its Debt**
2 **Collectors.**

3 4.102 Providence’s referral of more than \$460 million in charges of patients it knew were
4 low-income and charity care qualified, including Medicaid patients and patients identified as
5 having income between 151-200%, to Debt Collectors allowed it to collect vast sums from its
6 poorest patients.

7 4.103 2018 to the present Providence collected \$4,460,658 from Medicaid enrollees and
8 patients identified as having income between 151-200% FPL through its Debt Collectors.⁹

9 **J. Providence is a large, highly profitable corporation, which derives extraordinary**
10 **financial benefits from its tax-exempt, charitable nonprofit status.**

11 4.104 Providence operates as a tax-exempt, charitable, “not-for-profit” organization
12 under Section 501(c)(3) of the federal tax code, 26 U.S.C. § 501(c)(3). In return, Providence is
13 required by law to engage in charitable purposes and is exempt from state, county, and local
14 property taxes based on its nonprofit status.

15 4.105 In addition to the enormous value of these federal, state, county, and local tax
16 exemptions, Providence receives large tax benefits by issuing low-interest, tax-exempt bonds and
17 debt financing, and by soliciting and receiving tax-deductible charitable contributions.

18 4.106 At the same time, Providence generates enormous revenues and profits. In 2020
19 (during the COVID-19 pandemic), Providence’s hospitals in Washington, including Swedish and
20 Kadlec, reported over \$18 billion in patient service revenues. The year before, in 2019,
21 Providence reported over \$19 billion in patient service revenues. And in 2018, it reported nearly
22 \$18 billion in patient service revenues.

23 4.107 In 2019, according to Medicare Cost reports, Providence earned \$118 million in
24 net revenues (total revenues less total expenses i.e. profit). Providence achieves its high
25

26 ⁹ Providence refunded or credited an insignificant \$258,581 of these payments.

1 profitability despite granting generous salaries and benefits to executives and senior managers. In
2 2019, for instance, Providence paid its President, Mike Butler, \$4.1 million in compensation and
3 benefits, and its former President/CEO, Rod Hochman, received \$10.9 million in compensation
4 and benefits. The same year, the *average* annual compensation and benefits of Providence’s ten
5 next highest paid employees was \$1.8 million.

6 4.108 Providence maintains deep reserves of cash, investment securities, and other assets
7 such as land, buildings, and equipment. In 2019, according to the Washington Department of
8 Health, Providence held over \$700 million in cash and investment securities, and the total value
9 of its land, buildings, and equipment was over \$4 billion.

10 4.109 Providence uses the profits from its hospital operations to support a venture capital
11 fund through which it manages hundreds of millions of dollars in investments. Founded in 2014,
12 Providence’s investment fund, Providence Ventures, manages over \$300 million of investment
13 capital supporting Providence’s profit-generating investments in a wide array of other health care
14 companies.

15 4.110 Providence has received substantial federal aid during the COVID-19 pandemic.
16 In May, 2021 the New York Times reported that Providence Health and Services received
17 approximately \$1 billion in pandemic-related federal aid.¹⁰

18 **V. CLAIM FOR VIOLATIONS OF THE CONSUMER PROTECTION ACT,**
19 **RCW 19.86.020 / NON-PER SE VIOLATIONS**

20 5.1 Plaintiff re-alleges paragraphs 1.1 through 4.106 and incorporates them as if fully
21 set forth herein.

22 5.2 Upon information and belief, Providence engaged and continues to engage in
23 unfair and deceptive conduct in trade or commerce affecting Washington consumers, including
24

25 ¹⁰ Reed Abelson, *Buoyed by Federal Covid Aid, Big Hospital Chains Buy Up Competitors*, New
26 York Times, May 21, 2021. See <https://www.nytimes.com/2021/05/21/health/covid-bailout-hospital-merger.html>.

1 but not limited to the following:

2 5.2.1 Failing to adequately disclose the availability of charity care;

3 5.2.2 Creating the deceptive net impression that patients are required to pay for
4 their care regardless of income or ability to pay;

5 5.2.3 Unfairly violating the public policy established by the Charity Care Act
6 that requires hospitals to make every reasonable effort to screen patients for charity care eligibility
7 prior to attempting to collect payment from them;

8 5.2.4 Unfairly screening patients to identify all insurance or coverage options
9 that could pay for patients' care prior to attempting to collect payment from patients, while failing
10 to screen patients for charity care eligibility;

11 5.2.5 Unfairly and deceptively failing to disclose to patients when it knows that
12 they are presumptively charity care qualified;

13 5.2.6 Unfairly and deceptively continuing to attempt to collect payment from
14 patients it knows are presumptively charity care qualified;

15 5.2.7 Unfairly abandoning prior practices and failing to implement new
16 processes to prevent accounts associated with Medicaid-enrolled patients from being transferred
17 to Debt Collectors;

18 5.2.8 Sending patients a pre-collect letter that creates the deceptive net
19 impression that negative credit reporting or litigation is imminent if the patient does not pay; and

20 5.2.9 Unfairly and deceptively discouraging or deterring low-income patients
21 from seeking necessary hospital care, contrary to the public policy established by the Charity Care
22 Act.

23 5.3 The conduct described in paragraphs 1.1 through 5.2 constitutes unfair and
24 deceptive acts or practices in trade or commerce in violation of RCW 19.86.020 and is contrary
25 to the public interest.

26 5.4 These acts or practices occurred in trade or commerce, specifically the provision

1 of and payment for medical services by Washington residents.

2 5.5 These practices affected the public interest because they affect numerous
3 Washington consumers' ability to access affordable health care. These practices constitute a
4 pattern of conduct which Providence has committed in the course of its business and of which
5 there is a real and substantial potential for repetition.

6 **VI. CLAIM FOR VIOLATIONS OF THE CONSUMER PROTECTION ACT,**
7 **RCW 19.86.020 / PER SE VIOLATIONS UNDER RCW 19.16.250(28) & (29).**

8 6.1 Plaintiff re-alleges paragraphs 1.1 through 5.5 and incorporates them as if fully set
9 forth herein.

10 6.2 Violations of the prohibited collection practice provisions in the Collection
11 Agency Act, RCW 19.16.250, including RCW 19.16.250(28) & (29), are *per se* unfair or
12 deceptive practices in trade or commerce under the Consumer Protection Act. RCW 19.16.440.

13 6.3 Violations of the prohibited collection practice provisions in RCW 19.16.250,
14 including RCW 19.16.250(28) & (29), satisfy the "public interest impact" element of a Consumer
15 Protection Act claim. *Panag v. Farmers Ins. Co. of Washington*, 166 Wn.2d 27, 54, 204 P.3d 885
16 (2009).

17 6.4 Providence's, Optimum's and Harris & Harris's violations of the Collection
18 Agency Act, RCW 19.16.250(28) & (29), are *per se* unfair or deceptive practices in trade or
19 commerce that affect the public interest and violate the Consumer Protection Act. RCW
20 19.86.020; RCW 19.16.440.

21 6.5 Because Providence knowingly assisted, directed, controlled, participated in,
22 carried out, and/or approved of Optimum's and Harris & Harris's acts, practices, and activities in
23 violation of the Collection Agency Act, RCW 19.16.250(28) & (29), Providence is jointly and
24 severally liable with each of the Debt Collectors under the Consumer Protection Act for these
25 unfair or deceptive acts. RCW 19.16.440; RCW 19.86.020; *State v. Ralph Williams' N.W.*
26 *Chrysler Plymouth, Inc.*, 87 Wn.2d 298, 322, 553 P.2d 423 (1976).

1 per violation against Defendants for each and every violation of RCW 19.86.020 alleged herein.

2 7.6 That the Court make such orders pursuant to RCW 19.86.080 as it deems
3 appropriate to provide for restitution and prejudgment interest on restitution to consumers of
4 money or property acquired by Defendant as a result of the conduct complained of herein.

5 7.7 That the Court awards the State of Washington all costs incurred in bringing this
6 action, including reasonable attorneys' fees.

7 7.8 That the Court order such other relief as it may deem just and proper to fully and
8 effectively dissipate the effects of the conduct complained of herein, or which may otherwise
9 seem proper to the Court.

10 DATED this 9th day of August, 2022.

11 Presented by:

12 ROBERT W. FERGUSON
13 Attorney General

14 /s/ Audrey Udashen

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