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

9 STATE OF WASHINGTON,

10 Plaintiff,

11 v.

12 COLUMBIA CAPITAL MEDICAL
13 CENTER LIMITED PARTNERSHIP
d/b/a CAPITAL MEDICAL CENTER,

14 Defendant.

NO.

COMPLAINT FOR INJUNCTIVE AND
OTHER RELIEF UNDER THE
CONSUMER PROTECTION ACT,
RCW 19.86

15
16 COMES NOW PLAINTIFF, State of Washington, by and through its attorneys Robert W.
17 Ferguson, Attorney General, and Assistant Attorney General Audrey Udashen, and brings this
18 action against Columbia Capital Medical Center Limited Partnership d/b/a Capital Medical
19 Center (Capital) alleging as follows on information and belief:

20 **I. INTRODUCTION**

21 1.1 The Charity Care Act, RCW 70.170, requires all Washington hospitals to make
22 free and reduced-cost charity care available to low-income patients. RCW 70.170.060. To make
23 charity care accessible to patients, hospitals must notify patients of their right to apply for
24 charity care, screen patients for charity care eligibility before attempting to collect payment, and
25 limit the income verification documents that patients must produce with charity care
26 applications. WAC 246-453-010(16); WAC 246-453-020; WAC 246-453-030.

1 1.2 Capital undermined the purpose of the Charity Care Act, RCW 70.170, and
2 violated the Washington Consumer Protection Act, RCW 19.86, when it pressured thousands of
3 its low-income patients to pay for their treatment upfront and prevented them from accessing
4 charity care from at least 2012 until 2016.

5 1.3 Capital used various tactics to prevent patients from accessing charity care.
6 First, Capital improperly limited charity care to patients with urgent medical needs, rather than
7 allowing all low-income patients who received “appropriate hospital- based medical services” to
8 access charity care as required by Washington law. WAC 246-453-010(5).

9 1.4 Second, Capital, coerced payment from low-income outpatients by refusing to
10 schedule, threatening to cancel and on occasion cancelling medical appointments of patients
11 who could not pay for their treatment upfront without screening them for charity care eligibly.
12 Rather than providing every patient with information about their charity care rights, Capital
13 trained staff to only provide information about charity care to patients who specifically
14 requested it.

15 1.5 Capital called patients in advance of scheduled outpatient appointments to
16 determine how they planned to pay for any out-of-pocket costs associated with their treatment.
17 If a patient did not commit to making sufficient upfront payments during these calls or the
18 patient owed payment from prior treatment, Capital called their physician to inquire if their
19 treatment was needed on an urgent basis. If the physician did not indicate that the patient’s
20 treatment needs were urgent, Capital threatened to cancelled or reschedule their appointment
21 until they could pay upfront. On occasion, Capital actually cancelled the appointments of
22 patients who could not pay upfront.

23 1.6 Capital continued to aggressively demand payment from patients who requested
24 information about charity care during these calls. Patients report that when they requested
25 information about charity care, Capital representatives indicated that they could request a
26 charity care application at the hospital on their date of treatment, but they needed to commit to

1 making an upfront payment if they wanted their scheduled treatment to move forward because
2 “Capital does not pre-approve patients for financial assistance.”

3 1.7 Capital made similar payment demands from patients during registration on their
4 treatment dates. Capital trained staff to “not offer financial assistance” or charity care when
5 registering patients for treatment, but to present patients with limited payment options,
6 including a discount in exchange for prompt payment, payment plans, or accepting medical
7 credit cards.

8 1.8 Capital did not limit its aggressive collection to outpatient departments. Capital
9 trained staff members to attempt to collect a deposit from every patient admitted to the
10 emergency room, including uninsured patients, regardless of their ability to pay. These
11 collection attempts were often made from patients in hospital beds and gowns, while they
12 awaited emergency treatment.

13 1.9 When patients managed to obtain charity care applications, Capital subjected
14 them to income verification requirements which exceeded that permitted by Washington law.
15 Rather than limiting its income verification requirements to one document, as provided for in
16 the Charity Care Regulations, Capital required that patients produce numerous income
17 verification documents, including multiple pay stubs, tax returns, and bank statements.
18 WAC 246-453-030. These practices unfairly burdened low-income patients with limited access
19 to computers and financial records and served to diminish their access to charity care.

20 1.10 Capital created a culture that elevated aggressive collection over access to charity
21 care. Capital provided little to no training to staff on their charity care obligations, but provided
22 extensive direction and training on upfront collections. Capital management also regularly
23 reviewed staff members’ upfront collection rates and provided financial incentives tied to their
24 upfront collections. Supervisors at Capital often sent emails that referenced staff members’
25 upfront collection rates and encouraged aggressive collection.
26

1 1.11 Capital's practices deceived low-income patients about their liability for medical
2 expenses, misled patients about their payment and financial assistance options, and unfairly
3 prevented them from accessing care. Without information about and access to charity care,
4 Capital's low-income patients paid for medical expenses they should not have been responsible
5 for, took on medical credit cards, incurred medical debts, and deferred medical care.

6 1.12 These practices caused Capital to provide charity care at one of the lowest rates
7 in the Southwest Washington Region and the state of Washington. In 2014 Southwest
8 Washington Region hospitals provided an average of 5.93 percent of their adjusted revenue in
9 charity care. In contrast, Capital provided just 0.37 percent of its adjusted revenue in charity
10 care that year. This trend continued in 2015, when Southwest Washington Region hospitals
11 provided an average of 3.18 percent of their adjusted revenue in charity care and Capital
12 provided only 0.44 percent. In both years, Capital provided the lowest rate of charity care in the
13 Southwest Washington Region and in the state of Washington.

14 **II. JURISDICTION AND VENUE**

15 2.1 This Complaint is filed and these proceedings are instituted under the provisions
16 of the Consumer Protection Act, RCW 19.86.

17 2.2 Venue is proper in Thurston County pursuant to RCW 4.12.020 and
18 RCW 4.12.025 because the violations alleged in this Complaint have been made and are being
19 committed in whole or in part in Thurston County, Washington.

20 2.3 The violations alleged in this Complaint are injurious to the public interest.

21 2.4 The Court's jurisdiction over this matter is conferred by RCW 19.86.080 and
22 RCW 19.86.140.

23 **III. PARTIES**

24 **A. Plaintiff**

25 3.1 Plaintiff is the State of Washington.
26

1 3.2 The Attorney General is authorized to commence this action by RCW 19.86.080
2 and 19.86.140. The Attorney General may seek restitution, injunctive relief and civil penalties
3 in an action brought under RCW 19.86.080 and RCW 19.86.140.

4 **B. Defendant**

5 3.3 Columbia Capital Medical Center Limited Partnership owns and operates Capital
6 Medical Center (Capital).

7 3.4 Capital is a 110-bed, for-profit hospital with a principal place of business at 3900
8 Capital Mall Dr. SW, Olympia, Washington. Capital earned approximately \$485,964,868 in
9 patient service revenue, had net income of approximately \$15,478,934, and total assets of
10 approximately \$57,049,549 in fiscal year 2016.¹

11 3.5 Capital is a subsidiary of RCCH HealthCare Partners (RCCH). RCCH operates
12 17 regional health systems in 12 states, including Washington. RCCH's principal place of
13 business is Brentwood, Tennessee. Capital was a subsidiary of Capella Healthcare (Capella)
14 until the spring of 2016 when Capella and RegionalCare Hospital Partners merged and formed
15 RCCH.

16 3.6 Parallon Business Performance Group (Parallon) is a healthcare management
17 company with a principal place of business in Nashville, Tennessee. Capital contracts with
18 Parallon to provide "revenue cycle management" services, which include assisting in the design
19 and implementation of Capital's collection policies and practices.

20 3.7 At all times relevant to this Complaint, the director of Capital's Patient Access
21 Department (Patient Access Director) was a Parallon employee. The Patient Access Department
22 registers Capital's patients for treatment, discusses payment options with patients, and collects
23
24

25 ¹ These figures are effective as of December 31, 2016.
26

1 payment for services from patients. The staff members of the Patient Access Department are
2 Capital employees (Capital staff members).

3 3.8 Upon information and belief, Capital and RCCH controlled or had the right to
4 control Parallon's conduct at all times relevant to this Complaint.

5 3.9 Parallon acted as the agent of Capital for purposes of the allegations in this
6 Complaint.

7 3.10 Capital's duty to comply with Washington State laws and regulations was not
8 delegable to Parallon.

9 3.11 Capital engages in trade or commerce in the state of Washington.

10 IV. FACTS

11 **A. The Charity Care Act and regulations require hospitals to provide free and**
12 **reduced-cost care to low-income patients.**

13 4.1 The Washington Legislature enacted the Charity Care Act, which directs all
14 hospitals to provide free and reduced-cost care to low-income patients, in 1989. RCW 70.170.
15 The Legislature passed the Charity Care Act to fulfill "a need for health care information that
16 helps the general public understand health care issues and how they can be better consumers."
17 RCW 70.170.010(1).

18 4.2 In passing the Charity Care Act, the Legislature found that "rising health care
19 costs and access to health care services are of vital concern to the people of this state," making it
20 "essential that strategies be explored that moderate health care costs and promote access to
21 health care services." RCW 70.170.010(2). Because "access to health care is among the state's
22 goals and the provision of such care should be among the purposes of health care providers and
23 facilities," the Legislature called for the establishment of "charity care requirements and related
24 enforcement provisions for hospitals." RCW 70.170.010(3).

25 4.3 The Charity Care Act requires hospitals to "develop, implement, and maintain"
26 charity care policies which "enable people below the federal poverty level access to appropriate

1 hospital-based medical services” and directs the Washington Department of Health to develop
2 rules to implement these requirements. RCW 70.170.060(3),(5).

3 4.4 The charity care regulations promulgated by the Department of Health (“Charity
4 Care Regulations”) direct hospitals to provide full charity care to patients with income at or
5 below 100 percent of the federal poverty guidelines and reduced-cost care to patients with
6 income between 100-200 percent of the federal poverty guidelines. WAC 246-453-010(4)-(5);
7 WAC 246-453-040(2). Charity care is available for all “appropriate hospital-based medical
8 services.” WAC 246-453-010(5),(7).

9 **B. Capital unlawfully restricted charity care to patients with urgent medical**
10 **needs.**

11 4.5 From at least 2012 through 2016, Capital frequently prevented low-income
12 patients who received care that was covered under the Charity Care Regulations, but was not
13 provided on an urgent basis, from accessing charity care.

14 4.6 The Charity Care Regulations require hospitals to make charity care available to
15 all indigent patients who received “appropriate hospital-based medical services.”
16 WAC 246-453-010(4)-(5).

17 4.7 “Appropriate hospital-based medical services” is broadly defined to include not
18 just services provided on an emergent or urgent basis, but all hospital services which are:

19 reasonably calculated to diagnose, correct, cure, alleviate, or
20 prevent the worsening of conditions that endanger life, or cause
21 suffering or pain, or result in illness or infirmity, or threaten to
22 cause or aggravate a handicap, or cause physical deformity or
23 malfunction, and there is no other equally effective more
24 conservative or substantially less costly course of treatment
25 available or suitable for the person requesting the service. For
26 purpose of this section, "course of treatment" may include mere
observation or, where appropriate, no treatment at all.

WAC 246-453-010(7).

1 4.8 By restricting charity care to patients with urgent medical needs, Capital
2 prevented patients in need of non-urgent “appropriate hospital-based medical services” from
3 accessing charity care.

4 4.9 In an email sent in May of 2014, Capital’s Patient Access Director asked its
5 Chief Financial Officer (CFO), Derek Lythgoe, if she should “loosen the reins” of its charity
6 care program to include “non-urgent” outpatient procedures. The CFO declined, stating: “no not
7 really, same as we have been doing.”

8 4.10 Following this directive, the Patient Access Director explained to staff members
9 in an email that Capital did not “typically provide charity for pts in for [sic] non-
10 urgent/emergent services.”

11 4.11 Consistent with this policy, a former Capital staff member reported that Capital
12 trained her to discourage patients from submitting charity care applications by representing that
13 they were only eligible for charity care if they required emergent medical care.

14 4.12 Capital also prevented patients without urgent medical needs from accessing
15 charity care by cancelling and rescheduling their appointments when they could not pay for
16 their treatment upfront.

17 4.13 When a patient could not pay a sufficient amount for their treatment upfront or
18 owed payment from prior treatment, Capital staff members contacted their physician to inquire
19 whether their treatment needs were urgent. Staff members referred to this process as “calling for
20 urgency.”

21 4.14 Capital’s financial counselor testified that if a patient’s physician did not indicate
22 that their treatment needs were urgent and the patient owed money to the hospital from prior
23 treatment, their appointment could be cancelled or rescheduled.

24 4.15 Upon information and belief, the appointments of patients who did not owe
25 payment from prior treatment could be cancelled or rescheduled if they did not commit to
26 making sufficient upfront payments and their treatment needs were not urgent.

1 4.16 Capital’s financial counselor testified that Capital did not train her to provide
2 patients with an explanation of their charity care rights or screen them for charity care eligibility
3 before their treatment was postponed or cancelled.

4 4.17 In a July 2015 email, Capital’s financial counselor asked its Patient Access
5 Director if two patients could proceed with their scheduled treatment, even though they could
6 not afford to pay more than \$50 a month towards their care. The financial counselor stated that
7 she “called the dr office yesterday for urgency,” but had not received a call back. The Patient
8 Access Director responded: “need a deposit unless they say it’s urgent.” This exchange did not
9 reference the patients’ potential eligibility for charity care.

10 4.18 In a September 2015 email, Capital’s financial counselor asked its Patient Access
11 Director if a patient could proceed with treatment the next day when he could pay nothing on
12 his date of service, could only pay \$50 a month thereafter, and owed \$194.03 to the hospital
13 from prior treatment. The Patient Access Director instructed the financial counselor to call the
14 patient’s physician and if he did not indicate urgency, “let them know we can reschedule until
15 the patient is able to do a deposit due to outstanding bills and pymt [*sic*] history with us.” When
16 the financial counselor explained that the patient’s physician typically refused to “give urgency”
17 and instead “threatened” to perform his surgeries at St. Providence St. Peters (another Olympia
18 hospital), the Patient Access Director responded: “I’m ok with this one going over there if
19 they’re better able to serve the patient in this case.” The patient’s potential charity care
20 eligibility was not discussed in this exchange.

21 **C. Capital failed to explain its charity care program to patients or screen them**
22 **for charity care eligibility.**

23 4.19 Low-income patients’ access to affordable medical care is of such vital concern
24 that Washington law requires that all hospitals screen patients for charity care eligibility and
25 provide patients with notice of the availability of charity care prior to engaging in any collection
26 efforts.

1 4.20 The Charity Care Regulations require hospitals to make “publicly available” that
2 low-income patients may have their hospital charges “waived or reduced.”
3 WAC 246-453-020(2).

4 4.21 “Publicly available” means both “posted or prominently displayed within public
5 areas of the hospital” and “provided to the individual in writing and explained, at the time that
6 the hospital requests information from the responsible party with regard to the availability of
7 any third-party coverage.” WAC 246-453-010(16).

8 4.22 The Charity Care Regulations seek to prevent aggressive collection from low-
9 income, charity care qualified patients—like that engaged in by Capital—by requiring that
10 hospitals refrain from collection of any kind until they screen patients for charity care
11 eligibility. WAC 246-453-020(1).

12 4.23 The Charity Care Regulations require that hospitals screen patients for charity
13 care eligibility at or near the time of admission. WAC 246-453-020(1)(b). The “initiation of
14 collection efforts” is “precluded” until this screening occurs. WAC 246-453-020(1). This
15 screening must be based on information provided orally by the patient and cannot be delayed
16 until the patient is able to produce written verification of their income. WAC 246-453-030(1).

17 4.24 A patient should be considered initially qualified for charity care if it appears,
18 pending verification, that “the services provided by the hospital may or may not be covered by
19 third party sponsorship” or the hospital receives an indication from the patient that he or she
20 “may meet the criteria for designation as an indigent person qualifying for charity care.”
21 WAC 246-453-010(19).

22 4.25 If a patient is determined to be charity care eligible based on this screening, the
23 hospital must refrain from collection activities until a final decision on their charity care
24 application is rendered. WAC 246-453-020(1)(c).

25 4.26 From at least 2012 until late 2016, Capital requested patients’ insurance
26 information and demanded upfront payment from patients during scheduling, pre-treatment

1 phone calls, and on patients' dates of service. Capital failed to provide an explanation of
2 patients' charity care rights or screen them for charity care eligibility at each of these junctures.

3
4 **1. Scheduling**

5 4.27 Capital requested patients' insurance information and attempted to collect
6 upfront payment from them during scheduling, but did not provide patients with an explanation
7 of its charity care program or screen them for charity care eligibility.

8 4.28 Capital's Patient Access Supervisor testified that Capital trained staff members
9 to request patients' insurance information during scheduling. Although its requests for patients'
10 insurance information triggered Capital's obligation to provide an explanation of its charity care
11 program to patients, Capital did not train staff members to provide an explanation of the
12 availability of charity care to patients at any time during the scheduling process.²

13 4.29 Capital did not schedule uninsured patients for treatment until it assessed their
14 ability to pay for their treatment.

15 4.30 Capital's current surgery scheduler testified that she followed a special protocol
16 when scheduling uninsured patients for treatment. Pursuant to this protocol, before scheduling
17 an uninsured patient for treatment, she provided the patient's information to the Patient Access
18 Department and waited until Patient Access told her whether she could "go ahead" and schedule
19 the patient's surgery.

20 4.31 In a February 2012 email, Capital's Patient Access Director explained that the
21 Patient Access Department had to "clear" uninsured patients before they could be scheduled for
22 treatment.

23
24 _____
25 ² Patients can self-schedule radiology appointments, not surgical appointments at Capital.
26

1 4.32 Upon information and belief, when clearing a patient for treatment, Patient
2 Access staff members informed the patient of the cost of their treatment, assessed their ability to
3 pay this amount, and attempted to reach a negotiated payment arrangement with the patient. In
4 some situations, the Patient Access Department did not clear patients to receive treatment if they
5 did not commit to a satisfactory payment arrangement.

6 4.33 Upon information and belief, Capital did not routinely provide patients with
7 notice of their charity care rights or screen them for charity care eligibility during clearance.

8 4.34 In August 2012 an uninsured, unemployed patient attempted to schedule a
9 surgery at Capital. During clearance, Capital staff members determined that the patient received
10 \$864 a month from unemployment compensation and owed \$143.21 to Capital from a prior visit
11 to the emergency department. Despite the patient's low income, when she offered to pay \$600
12 upfront and \$400 a month towards the cost of her treatment, the Patient Access Director
13 declined to provide her with a charity care application. Although the Patient Access Director
14 refused to provide the patient with access to charity care, she concluded that the patient "won't
15 pay" and instructed staff that "we will not move forward with this patient."

16 4.35 When Capital's financial counselor informed the patient that Capital would not
17 schedule her surgery, the patient offered to pay a \$1,200 down payment for the surgery. The
18 financial counselor responded by indicating that Capital would not "move forward without
19 payment in full." The patient then insisted that she speak with financial counselor's supervisor
20 to discuss her "payment options." The Patient Access Director later spoke to the patient and
21 informed her that based on her "financial information," "the fact that this not an urgent
22 procedure per MD office and that she has bad debt with us, she would not be able to move
23 forward without" payment of \$8,638 in full at the time of service.

24 4.36 In October 2013 Derek Lythgoe, Capital's chief financial officer at the time,
25 permitted Capital's Patient Access Director to decline to schedule a patient who she described
26 as follows:

1 The below pt works at St. Pete's, does not have insurance and wants to come here for an uninsured
2 surgery - her portion is approx 7300.00. Her credit score is 596, she filed bankruptcy in May 2013,
3 there are multiple collection accounts on her credit report, she has a BD acct with us from 2011. She
4 wants to do MAP, which she would qualify since her bankruptcy is not "active", but I highly doubt she will
5 pay, but rather will default.

6 4.37 The evidence of this patient's inability to pay for her treatment noted in this
7 email, including a lack of insurance, low credit score, previous difficulty in paying for medical
8 expenses, and a bankruptcy should have been considered during a charity care screening rather
9 than as a basis to withhold treatment.

10 **2. Pre-treatment collection calls.**

11 4.38 Capital continued its coercive collection efforts in pre-treatment collection calls.

12 4.39 Capital routinely called patients 1-2 days before scheduled appointments to
13 determine how they planned to pay for their upcoming treatment. During these calls, Capital
14 requested patients' insurance information (which again triggered its obligation to provide an
15 explanation of its charity care program) and identified and sought payment of their out- of-
16 pocket responsibilities.

17 4.40 Capital did not provide patients with notice of their charity care rights during
18 these calls or screen patients for charity care eligibility. Instead, Capital trained staff members
19 to only provide information about charity care to patients who specifically requested it.

20 4.41 Capital only presented patients with two payment options during these calls:
21 either pay their out-of-pocket responsibility promptly and receive a discount or pay half of this
22 amount and commit to a payment plan for the rest.

23 4.42 If a patient did not commit to one of these payment options, Capital trained staff
24 members to threaten to cancel their appointment.

25 4.43 Capital trained staff members to use specific language when collecting payment
26 prior to treatment from patients, including in pre-treatment collection calls. A former staff
member reported that Capital trained her to refer to the payment it sought to collect from the

1 patient as the “patient responsibility portion.” Instead of asking patients *if* they could pay for
2 their treatment upfront, Capital trained her to inquire: “how would you like to pay today?” or
3 “how would you like to take care of that today?” She believed that Capital selected this
4 phrasing to give patients the impression that they were to pay for their treatment upfront and no
5 other payment or financial assistance options were available to them.

6 4.44 Capital’s Patient Access Director also sent emails directing her staff to use
7 similar phrasing when collecting upfront payment from patients.

8 4.45 A Capital patient who received pre-treatment collection calls from Capital’s
9 financial counselor in the summer and fall of 2016 reported that the financial counselor opened
10 the calls by asking how she would like to “take care of” payment of her copay and deductible
11 amounts for her upcoming treatment. The financial counselor then presented the patient with
12 two payment options, either: (1) pay in full and receive a 25 percent prompt pay discount or (2)
13 pay 50 percent down and enter a payment plan for the remainder. When the patient did not
14 immediately commit to either of these payment options, the financial counselor indicated that
15 she had 48 hours to accept one of these options or her appointment would be cancelled. The
16 financial counselor did not give this patient any information about charity care or ask any
17 questions about her income to screen her for charity care eligibility during this call.

18 4.46 The patient specifically requested information about charity care during a
19 subsequent pre-treatment collection call. Capital’s financial counselor informed her that she
20 could request a charity care application at the hospital on her treatment date, but she needed to
21 commit to making a payment in advance if she wanted her appointment to go forward because
22 “Capital does not pre-approve patients for financial assistance.”

23 4.47 Capital’s financial counselor confirmed these coercive collection practices. She
24 testified that Capital trained her to threaten to cancel the appointments of patients who would
25 not commit to payment arrangements without providing notice of the availability of charity care
26 or screening them for charity care eligibility. The financial counselor also testified that if a

1 patient inquired into charity care, she would indicate that they needed to make a payment if they
2 wanted their treatment to move forward because Capital would not “pre-qualify” them for
3 charity care.

4 **3. Date-of-treatment collection.**

5 4.48 Capital advanced its collection efforts on patients’ treatment dates.

6 4.49 Upon information and belief, before providing treatment to patients, Capital staff
7 members requested their insurance information (again triggering its duty it to provide an
8 explanation of its charity care program) and sought payment of patients’ out- of- pocket
9 responsibilities.

10 4.50 As during pre-treatment collection calls, Capital did not screen patients for
11 charity care before demanding payment and trained staff members to withhold information
12 about charity care from patients unless the patient specifically requested information about it.

13 4.51 This direction is evidenced in a December 2015 email, in which a Capital staff
14 member asked the Patient Access Director if she should only provide outpatients with charity
15 care applications if they requested one directly. The Patient Access Director responded in the
16 affirmative: “only if they ask for a charity app on outpatient!”

17 4.52 Capital trained staff members to present patients with a limited set of payment
18 options on their treatment dates. The Patient Access Director described these payment options
19 in a May 2014 email. The email explained that the following payment “guidelines” were “for
20 surgery patients coming in early in the morning,” but “are appropriate for any patient”:

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- | |
|--|
| <ol style="list-style-type: none">1. Tell them the ESTIMATED amount due and offer them the prompt pay discount.2. If they can't do that, let them know we can take half down with pay off in three months.3. If they can't do that, let them know about the MAP program....low interest, low payments through US Bank with a low down payment.4. Do not offer financial assistance, but if any patients asks for a charity application, give it to them. There are never any guarantees when a patient takes an FAA. We also typically don't provide charity for pts in for non-urgent/emergent services. |
|--|

1 4.53 Capital's financial counselor testified that Capital's staff members followed these
2 guidelines, including the instruction to withhold information about charity care, when collecting
3 from patients.

4 4.54 The reports of Capital's patients demonstrate the effect of these guidelines.

5 4.55 A Capital patient reported that during registration for a scheduled procedure, a
6 staff member demanded that she pay the full amount owing for her procedure upfront. When the
7 patient expressed uncertainty about her ability to do so, the Capital staff member indicated that
8 if she wanted the treatment to move forward, she either needed to pay the full amount due or
9 sign up for a medical credit card offered through Capital to pay for the treatment.

10 4.56 The patient signed up for the credit card because she could not afford to pay for
11 her treatment upfront and she felt that she would not receive care otherwise. The patient
12 received no information about charity care during this interaction, nor was she asked questions
13 about her income to screen her for charity care eligibility.

14 4.57 Internal Capital correspondence confirms that Capital directed staff members to
15 collect payment from patients prior to their treatment without screening them for charity care
16 eligibility.

17 4.58 In a March 2014 email, the Patient Access Director instructed staff that "if you
18 get any type of walk in or add on patient that is uninsured, those MUST be collected on." The
19 Patient Access Director explained that "if the patient can't pay upfront and feels its [sic] urgent
20 or you see the order says stat- that has to go through me" "or one of the other leads." This email
21 did not direct staff members to screen patients for charity care eligibility or provide information
22 about charity care before demanding payment.

23 4.59 In an October 2015 email, the Patient Access Director stated that she put a "VIP
24 alert" on the accounts of patients scheduled for treatment with outstanding accounts from prior
25 treatment. She explained that if the alert came up on any patient seeking an "outpatient lab,
26 xray, DIC ect. [sic]" "**we're not to put them through without payment in full upfront on the**

1 **new registration as well as the old accounts.**” (emphasis in original). She noted that patients
2 who “can’t pay” could only receive treatment with “prior approval” from management.

3 4.60 These practices gave patients and their physicians the impression that Capital
4 required upfront payment.

5 4.61 In a July 2015 email to Capital’s Patient Access Director, Capital’s risk
6 management coordinator described a complaint she received from physician who “was not
7 happy with our hospital ‘demanding’” that his patient “pay up front for the CT Scan back in Feb
8 2015.”

9 4.62 In a July 2015 email, Capital’s Patient Access Director described a “pretty
10 difficult situation with a patient” to a Parallon executive. The situation arose from a patient
11 who complained that a Capital staff member “acted like a debt collector” while attempting to
12 collect upfront payment from her. The Patient Access Director indicated that she believed that
13 the patient was upset because she called the billing line prior to service “and was told that
14 paying upfront was optional.” The Patient Access Director requested that Parallon follow up
15 with the billing line and advise them to “not communicate that upfront is optional.”

16 **4. Collection from emergency room patients.**

17 4.63 Capital extended its aggressive collection efforts to its predominately uninsured
18 and low-income emergency room patients.

19 4.64 During collection conversations in the emergency room, Capital staff members
20 requested patients’ insurance information (again triggering Capital’s obligation to provide an
21 explanation of patients’ charity care rights) and requested that all patients pay deposits.
22 Deposits included copay and deductible amounts from insured patients and \$200 from
23 uninsured patients.

24 4.65 Capital regularly demanded payment from emergency room patients once they
25 were in hospital rooms, often in hospital beds and gowns, awaiting treatment.
26

1 4.66 Unlike in its other departments, Capital asked uninsured patients in the
2 emergency room questions about their income to complete a charity care screening form. This
3 form was provided to a vendor to review the patient for charity care eligibility after the patient's
4 treatment.

5 4.67 Although Capital screened emergency room patients for charity care eligibility, it
6 did not suspend collection efforts against patients who it screened for charity care, as required
7 by Washington law. Instead, Capital continued to demand \$200 deposits from uninsured
8 patients *after* it screened them for charity care.

9 4.68 Capital management specifically directed staff to demand payment from every
10 patient in the emergency room, regardless of their ability to pay.

11 4.69 In a February 2014 email, Capital's Patient Access Director emphasized the
12 importance of collection in the emergency department: "the opportunity is great in the ER and
13 this is the year we need to turn our focus to getting in there and getting the ER collections." She
14 explained that by aggressively collecting from patients in the emergency room, they would
15 "make the community aware that they will be required to pay their copay, or at least a deposit
16 on that copay each time they come to the ER."

17 4.70 In a January 2016 email, the Patient Access Director noted that in reviewing her
18 staff's collection statistics, she saw "a lot of uninsured accounts without a deposit listed on the
19 deposit screen and no attempt at the deposit made." She then directed staff members to attempt
20 to collect from each patient in the emergency room: "make sure you're listing the 200 deposit. .
21 . and your conversation with the patient about collecting it noted."

22 4.71 A former Capital staff member reported that Capital's emergency room's
23 proximity to low-income housing and homeless encampments lead to frequent treatment of low
24 income patients.

25 4.72 Capital's Patient Access Supervisor testified that Capital's emergency room was
26 disproportionately populated by uninsured patients relative to the rest of Capital's facilities.

1 **D. When Capital's patients tried to apply for charity care, Capital imposed**
2 **income verification requirements which exceeded the requirements of the Charity Care**
3 **Regulations.**

4 4.73 The Charity Care Regulations require that hospitals design a charity care
5 application process that does not unduly burden low- income patients with limited access to
6 computers and financial records.

7 4.74 The Charity Care Regulations limit the income verification documents that
8 hospitals can require patients produce with charity care applications to *one* of the following
9 documents:

- 10 (a) A "W-2" withholding statement;
- 11 (b) Pay stubs;
- 12 (c) An income tax return from the most recently filed calendar year;
- 13 (d) Forms approving or denying eligibility for Medicaid and/or
 state-funded medical assistance;
- 14 (e) Forms approving or denying unemployment compensation; or
- 15 (f) Written statements from employers or welfare agencies.

16 WAC 246-453-030(2).

17 4.75 Capital required that patients produce multiple forms of income verification with
18 their charity care applications.

19 4.76 Capital sent letters to patients who submitted charity care applications which
20 requested that patients produce multiple forms of income verification:

21 Please provide the following documentation in order for us to
22 review your account:

- 23 *State Income Tax Return for the most current year
- 24 *Most recent three employer pay stubs
- *Written documentation from income sources
- *Copy of all bank statements for the last three months
- *Current credit report
- *Supporting W-2
- *Federal Tax Return
- *Supporting 1099's

1 4.77 Capital previously represented on its website that patients must produce two
2 forms of income verification to apply for charity care:

3
4 The **FINANCIAL ASSISTANCE APPLICATION** requires income verification which includes at
least two (2) documents from the following list.

- 5
- 6 • Most recent State or Federal Income Tax Return
 - 7 • Employer Pay Stubs for the last two months
 - 8 • Written documentation from income sources
 - 9 • Copies of all bank statements for the last three months
 - 10 • Current credit report (which we can obtain based on your authorization)

11 4.78 Patients also reported that when they requested information about the charity
12 care application process, Capital's financial counselor explained that to apply they needed to
13 provide two pay stubs, a tax return or W-2, and three months of bank statements.

14 4.79 Capital's income verification requirements went beyond the scope permitted by
15 Washington law placed an undue burden on its low- income patients. These requirements
16 served to deter patient access to charity care.

17 **E. Capital emphasized aggressive collection from patients and provided**
18 **insufficient staff training on the Charity Care Regulations.**

19 4.80 Capital provided staff members with minimal training on its charity care
20 program and the requirements of the Charity Care Act and Regulations.

21 4.81 When Capital's Patient Access Director was asked if her staff members received
22 training related to Capital's charity care program, she testified "[n]ot specifically that I'm aware
23 of." When she was asked if her staff members received direction on how to recognize patients
24 who might be eligible for charity care, she testified "there have been emails and we've had
25 conversations, but I mean there is not a specific training that I can think of about it." A former
26 Capital staff member confirmed that she received minimal training on her charity care
obligations.

1 4.82 In contrast to the minimal training provided on charity care, Capital provided
2 extensive direction and training to staff members on upfront collection. This training
3 contributed to a culture at Capital which elevated aggressive collection over access to charity
4 care.

5 4.83 A former Capital staff member reported that when she worked at Capital, staff
6 members "were under a lot of pressure to collect as much money from patients as possible."
7 The Patient Access Director "told the registrars on a number of occasions that they needed to be
8 more aggressive about collections."

9 4.84 Capital's Patient Access Director regularly reviewed the rates at which staff
10 members collected upfront payment from patients. If she did not consider a staff member's
11 collection rates to be satisfactory, she sent directed them to collect more aggressively.

12 4.85 For example, in September 2015 the Patient Access Director sent an email to a
13 staff member that included her emergency room collections statistics. The Patient Access
14 Director stated "here is where you're at for Sept. Seems like a lot of missed opportunity." She
15 continued: "how are you following ER patients that are here during your shift? How do you
16 communicate with your co-workers who needs f/u for collection ect. [sic]" The staff member
17 wrote back: "WOW I didn't realize I was so far behind. I think I am really bad at asking
18 uninsured patients for co pays, but obviously that is something I HAVE to change." The
19 Patient Access Director responded with "Please do. It is something that has to change." The
20 Patient Access Director sent similar emails to other staff members to encourage stepped-up
21 collection efforts.

22 4.86 In a department-wide email sent in September 2015, the Patient Access Director
23 explained her purpose in sending these emails to individual staff members: "there is a heavy
24 emphasis on upfront collection and the role you each play in that." She explained that "if
25 you've received an email from me regarding your individual collections, it means there is
26

1 opportunity there and we need to work on that. The more you have these conversations with
2 patients it really will get easier.”

3 4.87 Capital staff members received written annual evaluations which specifically
4 referenced their upfront collection efforts. For example, a February 2016 evaluation of a staff
5 member, described her as a “strong collector in the ER...”

6 4.88 A different 2016 evaluation noted that a staff member had a “38% average for
7 collections.” The evaluation directed the staff member to “work with the supervisor or lead on
8 improving his upfront collections.”

9 4.89 The February 2015 evaluation of Capital’s financial counselor focused heavily
10 on her upfront collection efforts. The evaluation noted that the financial counselor was “always
11 looking for ways to improve upfront collections and is a large part of our success in meeting
12 goal [*sic*].” The evaluation also stated that the financial counselor is “always supporting,
13 training and identifying ways to help her co-workers in patient upfront collections.”

14 4.90 Capital and Parallon executives encouraged aggressive collection from patients.

15 4.91 In January 2016 Joel Gentry, a Parallon executive, emailed Capital’s Patient
16 Access Director (and her colleagues at other hospitals) to explain that “we have been given a
17 directive to vastly improve upfront collections for January and February over prior year.” The
18 email went on to explain that “we need you all to focus on the following now”:

- Pre-registration to include upfront collections
- Upfront collections at the time of service
- Extreme focus on ED patient collections
- Daily monitoring of upfront collections by registrar
- Coaching and other disciplinary action, as warranted, for employees failing to collect on a regular basis
- Escalations for non-payment with thorough documentation for any payment less than 100% of the amount due
- Accountability of your leadership staff and Financial Counselors
- Ensure 100% of patients that have a balance due are asked for payment
- Monitor collection activities to ensure sound collections scripts are being followed

1 4.92 A former Capital staff member reported that in or around November 2012,
2 Capital's then-Chief Executive Officer, Jim Geist, (Geist) attended a Patient Access Department
3 staff meeting.

4 4.93 Geist spoke on a handful of topics at this meeting. These topics included the
5 Affordable Care Act (ACA) and the effect it would have on Capital. Geist explained that the
6 "economy was already bad for for-profit hospitals and the ACA would make it even worse."

7 4.94 Geist instructed staff members to collect as much money from patients as they
8 could. He described the Patient Access Department staff members as the "money makers" who
9 could "determine whether or not the emergency department makes money." Geist also explained
10 that Capital needed to "get something out of" every uninsured patient and directed staff to not let
11 uninsured patients "leave without paying anything."

12 4.95 During the course of the meeting, Geist passed around a study of for-profit
13 hospitals, which showed that they fail when they do not bring in enough money from patients.

14 4.96 After this meeting, the former staff member felt pressured to increase her collection
15 from patients, fearing that she would lose her job if she could not bring in more money. Other
16 members of the Patient Access Department also expressed concern to her about losing their jobs if
17 they did not collect more from patients after this meeting.

18 **F. Capital incentivized aggressive collection from patients.**

19 4.97 Capital provided cash bonuses and other incentives to staff members who met
20 upfront collection goals. Cash bonuses ranged from .5 percent to 5 percent of the amounts
21 collected.

22 4.98 Capital's Patient Access Director testified that the bonus structure incentivized
23 staff members to have "difficult" collection conversations with patients.

24 4.99 Capital's management sent emails that detailed different teams' progress towards
25 their collection goals and which encouraged them to aggressively collect upfront payment.
26

1 4.100 On February 27, 2016, the Patient Access Director sent an email to the
2 emergency room team, which was close to meeting their February collection goal. The email
3 explained that “[w]eekend ER and admits and everything Monday will be what gets us over the
4 line and safe from any refunds. Don’t let being this close let us lose focus...We need a safe
5 distance over the goal line!” The email continued:

7 **Every patient, every time!**

8 No outpatient walk in moves forward without a payment or approval from mgmt.
9 Look for prior accounts when registering your patient and collect for “old money”.

10 Get those deposits in the ER on patients you can’t verify their amounts:

MCR = 75.00

Commercial = 150.00

Uninsured =200.00

11
12 4.101 The Patient Access Director sent a similar email on August 5, 2015, explaining
13 that the emergency room team did not meet their July “upfront goal” and did not receive the
14 collection incentive of “root beer floats and pizza,” although “ER came so close.” She then
15 stated that:

17 **I’ll offer the same reward for all in August but include
18 dessert as well! 100 ER patients or 9000.00 in ER
19 collections. Whichever comes first ☺**

20 4.102 Capital offered no incentives to staff members to notify patients of their charity
21 care rights or screen them for charity care eligibility.

22 **G. Capital’s collection practices suppressed the amount of charity care it provided.**

23 4.103 Capital’s failure to provide notice and screen patients for charity care eligibility,
24 its emphasis on aggressive collection and its unduly burdensome charity care application
25 process reduced patient access to charity care.
26

1 4.104 The Washington Department of Health issues an annual report identifying the
2 amount of charity care provided by every hospital, how this amount compares to the hospital's
3 Adjusted Patient Service Revenue (patient service revenue less Medicare and Medicaid
4 revenue) ("Adjusted Revenue") in percentage terms, and the average percentage of charity care
5 provided by hospitals in each geographical region of the state. Capital is in the Southwest
6 Washington region which is comprised of Thurston, Grays Harbor, Mason, Lewis, Pacific,
7 Cowlitz, Clark, Skamania, and Klickitat counties.

8 4.105 In 2012 the hospitals in the Southwest Washington Region provided an average
9 of 8.66 percent of their Adjusted Revenue in charity care. Capital provided only 1.6 percent of
10 its Adjusted Revenue in charity care that year.

11 4.106 In 2013 the hospitals in the Southwest Washington Region provided an average
12 of 8.59 percent of their Adjusted Patient Service Revenue in charity care. Capital provided only
13 1.43 percent of its Adjusted Revenue in charity care that year. Capital reported the lowest
14 percentage of charity care in the Southwest Washington Region in 2013.

15 4.107 In 2014 the hospitals in the Southwest Washington Region provided an average
16 of 5.93 percent of their Adjusted Patient Service Revenue in charity care. Capital provided
17 only 0.37 percent of its Adjusted Revenue in charity care that year, leaving it with the lowest
18 charity care rate in both the Southwest Washington Region and in state of Washington.

19 4.108 In 2015 the hospitals in the Southwest Region provided an average of
20 3.18 percent of their Adjusted Revenue in charity care. Capital reported only 0.44 percent of its
21 Adjusted Revenue in charity care that year. Capital provided the lowest rate of charity care in
22 the Southwest Washington Region in 2015 and one of the lowest rates in the state of
23 Washington.

1 5.2.8 Unfairly demanding the payment of deposits from patients who it
2 screened for charity care eligibility.

3 5.2.9 Employing unfair and deceptive collection practices, including using
4 collection scripting which gave patients the impression that they were required or expected to
5 pay for their treatment upfront, including asking patients “how would you like to pay today?”
6 and “how would you like to take care of payment today?”

7 5.2.10 Unfairly and deceptively requiring low-income patients to pay for their
8 treatment upfront, or giving patients the impression that they were required to pay upfront,
9 when they had to right to decline to pay upfront and apply for charity care.

10 5.2.11 Unfairly diminishing low-income patient’s access to charity care by
11 requiring income documentation which exceeded that permitted by the Charity Care
12 Regulations.

13 5.2.12 Unfairly incentivizing aggressive upfront collecting from staff members.

14 5.2.13 Unfairly causing patients to pay for medical expenses they should not
15 have been responsible for, take on medical credit cards, incur significant medical debts, and
16 forgo important medical care.

17 5.3 The conduct described in paragraphs 1.1 through 5.2 constitutes unfair and
18 deceptive acts or practices in trade or commerce in violation of RCW 19.86.020 and is contrary
19 to the public interest.

20 5.4 These acts or practices occurred in trade or commerce, specifically the provision
21 of and payment for medical services to Washington residents.

22 5.5 These practices affected the public interest because they impacted numerous
23 Washington residents’ ability to access affordable health care. These practices constituted a
24 pattern of conduct which Capital committed in the course of its business and of which there is a
25 real and substantial potential for repetition.

1 **VI. PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff, State of Washington, prays that this Court grant the following
3 relief:

4 6.1 That the Court adjudge and decree that Defendant engaged in the conduct
5 complained of herein.

6 6.2 That the Court adjudge and decree that the conduct complained of in the
7 Complaint constitutes unfair or deceptive acts or practices and unfair methods of competition in
8 violation of the Consumer Protection Act, 19.86 RCW.

9 6.3 That the Court issue a permanent injunction enjoining and restraining Defendant
10 and its representatives, successors, assigns, officers, agents, servants, employees, and all other
11 persons acting or claiming to act for, on behalf of, or in active concert or participation with
12 Defendant from continuing or engaging in the unlawful conduct complained of herein.

13 6.4 That the Court assess civil penalties, pursuant to RCW 19.86.140, of up to
14 \$2,000 per violation against Defendant for each and every violation of RCW 19.86.020 alleged
15 herein.

16 6.5 That the Court make such orders pursuant to RCW 19.86.080 as it deems
17 appropriate to provide for restitution to consumers of money or property acquired by Defendant
18 as a result of the conduct complained of herein.

19 6.6 That the Court award the State of Washington all costs incurred in bringing this
20 action, including reasonable attorneys' fees.

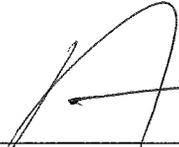
21 6.6 That the Court order such other relief as it may deem just and proper to fully and
22 effectively dissipate the effects of the conduct complained of herein, or which may otherwise
23 seem proper to the Court.

24 //
25 //
26 //

1 DATED this 21st day of September, 2017.

2 Presented by:

3 ROBERT W. FERGUSON
4 Attorney General

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6 _____

7 AUDREY UDASHEN, WSBA #42868
8 Assistant Attorney General
9 Attorneys for Plaintiff State of Washington

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