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**STATE OF WASHINGTON  
PIERCE COUNTY SUPERIOR COURT**

STATE OF WASHINGTON,

Plaintiff,

v.

FRANCISCAN HEALTH SYSTEM d/b/a  
CHI-FRANCISCAN HEALTH d/b/a  
ST. JOSEPH MEDICAL CENTER,

Defendant.

NO.

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

COMES NOW PLAINTIFF, State of Washington, by and through its attorneys Robert W. Ferguson, Attorney General, and Assistant Attorneys General Audrey Udashen and Robert Hyde, and brings this action against Franciscan Health System d/b/a CHI-Franciscan Health d/b/a St. Joseph Medical Center (St. Joseph), alleging as follows on information and belief:

**I. INTRODUCTION**

1.1 The Charity Care Act, RCW 70.170, requires all Washington hospitals to make free and reduced cost charity care available to low-income patients. RCW 70.170.0260. In order to make charity care accessible to patients, hospitals must notify patients of their right to apply for charity care orally and in writing, screen patients for charity care eligibility before attempting to collect payment, and limit the income verification documents that patients must

1 produce with charity care applications. WAC 246-453-010(16); WAC 246-453-020;  
2 WAC 246-453-030.

3 1.2 St. Joseph undermined the purpose of the Charity Care Act, RCW 70.170, and  
4 violated the Washington Consumer Protection Act, RCW 19.86, by pressuring its low-income  
5 patients to pay for their treatment upfront while concealing the availability of charity care.

6 1.3 St. Joseph's on-site revenue cycle and collection vendor and agent, Conifer  
7 Health Solutions (Conifer), demanded upfront or "point of service" payment from each of  
8 St. Joseph's patients, using techniques designed to give patients the impression that their only  
9 option was to pay for their treatment upfront. These techniques included making at least three  
10 successive demands from each patient by asking "How would you like to pay today? Cash,  
11 check or credit card?" or "How would you like to take care of that today? Cash, check or credit  
12 card" instead of "Can you pay today?" or "Are you able to pay today?"

13 1.4 Conifer training materials explain that it selected this phrasing to diminish  
14 patients' ability to decline to pay for their treatment upfront and explore charity care. A 2015  
15 Conifer Customer Service and POS Collections User Guide identified one of the objectives of  
16 this phrasing as to "avoid phrases that give patients the option to not pay..."

17 1.5 St. Joseph did not screen patients for charity care eligibility or provide an  
18 explanation of its charity care program before making these aggressive payment demands.

19 1.6 Instead, until 2016, Conifer trained its St. Joseph-based employees to never  
20 volunteer information about its charity care program to patients and only provide charity care  
21 applications to patients who specifically requested one. But even when a patient requested a  
22 charity care application, Conifer trained its staff to attempt to collect a deposit from the patient  
23 before providing them with the charity care application. A former Conifer employee reported  
24 that her supervisor trained her to "encourage patients to pay the deposit by indicating that I  
25 could only provide them with a charity care application if they paid a deposit first."

26 1.7 Although St. Joseph began to provide a written explanation of its charity care

1 program to patients in 2016, it provided these materials *after* concluding its coercive collection  
2 attempts.

3 1.8 When St. Joseph's patients managed to obtain a charity care application,  
4 St. Joseph subjected them to income verification requirements that exceeded those permitted by  
5 Washington law. St. Joseph required that patients produce numerous income verification  
6 documents, including multiple pay stubs, tax returns and bank statements, rather than limiting  
7 its requirements to one form of documentation, as required by Washington law. The Director of  
8 Conifer's Medicaid Eligibility & Counseling Service at St. Joseph (MECS Director), described  
9 St. Joseph's income verification requirements as "rather extensive" and explained that  
10 St. Joseph denied least 50 percent of charity care applications it received because patients did  
11 not satisfy these excessive and improper income verification requirements.

12 1.9 These acts and practices deceived low-income patients regarding their  
13 responsibility for medical expenses, misled patients about their payment and financial assistance  
14 options, and unfairly prevented them from accessing charity care. Without information about  
15 and access to charity care, St. Joseph's low-income patients paid for medical expenses and  
16 incurred medical debt that St. Joseph should have provided as charity care.

## 17 II. JURISDICTION AND VENUE

18 2.1 This Complaint is filed and these proceedings are instituted under the provisions  
19 of the Consumer Protection Act, RCW 19.86.

20 2.2 Venue is proper in Pierce County pursuant to RCW 4.12.020 and RCW 4.12.025  
21 because the violations alleged in this Complaint have been made and are being committed in  
22 whole or in part in Pierce County, Washington.

23 2.3 The violations alleged in this Complaint are injurious to the public interest.

24 2.4 The Court has jurisdiction over this matter under RCW 19.86.080 and  
25 RCW 19.86.140.

1 **III. PARTIES**

2 **A. Plaintiff**

3 3.1 Plaintiff is the State of Washington.

4 3.2 The Attorney General is authorized to commence this action by RCW 19.86.080  
5 and RCW 19.86.140. The Attorney General may seek restitution, injunctive relief and civil  
6 penalties in an action brought under RCW 19.86.080 and RCW 19.86.140.

7 **B. Defendant**

8 3.3 St. Joseph is a nonprofit, tax-exempt hospital with a principal place of business  
9 at 1717 South J Street in Tacoma, Washington. In fiscal year 2016, St. Joseph earned  
10 approximately \$674,735,032 in operating revenue, had net revenue of approximately  
11 \$51,286,794, and total assets of approximately \$458,947,801.<sup>1</sup>

12 3.4 St. Joseph is the flagship hospital of Franciscan Health System, which does  
13 business as CHI-Franciscan Health (CHI-Franciscan). According to its website, CHI-  
14 Franciscan is comprised of eight hospitals and a regional network of primary-care and specialty-  
15 care clinics, physicians, and other professional providers in Washington State.

16 3.5 CHI-Franciscan is a subsidiary of Catholic Health Initiatives (CHI). According  
17 to CHI's website, it is the nation's third-largest nonprofit health system, operates in 17 states  
18 and is comprised of 104 hospitals. In fiscal year 2016, CHI generated operating revenue of  
19 \$15.9 billion and had total assets of approximately \$22.7 billion. CHI's principal place of  
20 business is in Englewood, Colorado.

21 3.6 CHI is a partial owner of Conifer Health Solutions (Conifer), a healthcare  
22 management company with a principal place of business in Frisco, Texas. [REDACTED]

23 [REDACTED]

24  
25 <sup>1</sup> These figures are effective as of June 30, 2016.

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]

7 3.7 Conifer provided each of these services to St. Joseph, worked within St. Joseph's  
8 facilities and interacted directly with St. Joseph's patients.

9 3.8 St. Joseph's officers and employees supervised Conifer's conduct by providing  
10 input and direction on the design and implementation of its charity care and collection practices,  
11 addressing patient complaints about these practices and participating in St. Joseph's charity care  
12 committee.

13 3.9 St. Joseph's duty to comply with Washington State laws and regulations was not  
14 delegable to Conifer.

15 3.10 Conifer acted as the agent of St. Joseph for purposes of the allegations in this  
16 Complaint.

17 3.11 St. Joseph is liable for all of Conifer's acts and omissions alleged in this  
18 Complaint.

19 **IV. FACTS**

20 **A. St. Joseph used aggressive collection techniques to collect payment from patients  
21 prior to providing treatment.**

22 4.1 From at least 2012 until early 2017, St. Joseph, through its on-site agent, Conifer,  
23 aggressively demanded upfront or point of service payment (POS) from patients during  
24 registration for treatment. St. Joseph's aggressive collection techniques included making  
25 successive payment demands using phrasing designed to give patients the impression that they  
26 had no option except to pay for their treatment upfront.

1           4.2     Conifer employees registered patients for treatment in all departments at  
2 St. Joseph. Registration included a “financial clearance,” in which Conifer employees requested  
3 and verified patients’ insurance information and demanded the upfront payment of deposits.  
4 Conifer employees demanded copay and deductible amounts from insured patients and \$250  
5 deposits or “good faith payments” from uninsured patients.

6           4.3     Conifer trained its St. Joseph-based employees to, when collecting upfront  
7 payment, identify the payment amount sought by St. Joseph and ask the patient “How would  
8 you like to pay for that today? Cash, check or credit card?” or “How would you like to take care  
9 of that today? Cash, check or credit card?” instead of “Can you pay today?” or “Are you able to  
10 pay today?”

11           4.4     A St. Joseph-based Conifer employee testified that Conifer trained her to request  
12 a \$250 deposit when collecting from uninsured patients by asking “how would you like to pay  
13 make payment on that today? We take cash, credit, debit-”

14           4.5     The Conifer Pacific Northwest Patient Access Market Director (Patient Access  
15 Director) confirmed that her staff used this phrasing when collecting from all patients, including  
16 uninsured patients.

17           4.6     Conifer imparted this phrasing to employees through written training materials,  
18 “cheat sheets,” job shadowing, mock patient interviews, and oral direction.

19           4.7     The Patient Access Director described the collections training St. Joseph-based  
20 Conifer employees receive as follows:

21                   And then once they are on the floor, they shadow with other employees and they  
22 orally receive direction on how to have the conversations with the patients. And  
23 then we do have at St. Joseph’s some laminated cheat sheets that have scripting -  
24 - scripting for the employee; for example, How would you like to pay for that  
today, cash, check or credit card?

25           4.8     Conifer training materials explain that it selected this language to diminish  
26 patients’ ability to decline to pay for their treatment upfront and explore financial assistance.

1 The 2015 Conifer “Customer Service and POS Collections User Guide” (User Guide) described  
2 “Appropriate vs. Inappropriate Phrases” for upfront collections. *See* Exhibit A. According to  
3 the User Guide:

- 4 • Appropriate phrases include: how can you take care of that today?
- 5 • Inappropriate phrases include: can you or will you..., are you going to pay? and do  
6 you want to pay?

7 4.9 The User Guide identified one of the objectives of the collection phrasing as to  
8 “avoid phrases that give patients the option to not pay...”

9 4.10 A St. Joseph-based Conifer employee testified that Conifer used this phrasing in  
10 order to communicate to patients “that co-pay is due, expected at time of service.” She  
11 explained that “if people don’t pay the day that they are there, generally they don’t pay.”  
12 Because of this, Conifer trained its staff to “try to get payment at time of service” by using this  
13 collection phrasing. The same employee testified that Conifer directed her to use this phrasing  
14 because it enhanced the likelihood of collecting upfront payment from patients.

15 4.11 Conifer also trained its St. Joseph-based employees to demand payment from  
16 patients prior to treatment at least three times, with each demand seeking a successively smaller  
17 amount of payment.

18 4.12 A current St. Joseph-based Conifer employees confirmed this practice. She  
19 described her process for collecting upfront payment from patients as follows:

20 So if you were my patient, I would let you know that you have an ER co-pay,  
21 how would you like to take care of that? If you tell me, I’m unable to, I would –  
22 I’m supposed to turn around and ask how much -- How much could you do  
23 today? And if you say nothing, then I say, well, can you do -- if it’s a hundred  
24 dollars, can you do \$50? We’re supposed to ask three times.

24 4.13 Conifer distributed collection “cheat sheets” to its staff which include the  
25 practices described above.

26 4.14 One of the cheat sheets directed staff to make three POS collection attempts from

1 patients by asking “How Would You Like to Take Care of This Today?” See Exhibit B. If  
2 patients did not agree to pay on the first collection attempt, the cheat sheet directed staff  
3 members to request a “portion” of their “responsibility/liability” during a “2nd POS Collection  
4 Attempt.” If patients could not pay a portion of their amount owing, the cheat sheet directed  
5 staff members to request a “good faith deposit” during a “3rd POS Collection Attempt.”

6 **B. The Charity Care Act and regulations require hospitals to provide free and  
7 reduced-cost care to low-income patients.**

8 4.15 The Washington Legislature enacted the Charity Care Act, which directs all  
9 hospitals to provide free and reduced-cost care to low-income patients, in 1989. RCW 70.170.  
10 The Legislature passed the Charity Care Act to fulfill “a need for health care information that  
11 helps the general public understand health care issues and how they can be better consumers...”  
12 RCW 70.170.010(1).

13 4.16 In passing the Charity Care Act, the Legislature found that “rising health care  
14 costs and access to health care services are of vital concern to the people of this state,” making it  
15 “essential that strategies be explored that moderate health care costs and promote access to  
16 health care services.” RCW 70.170.010(2). Because “access to health care is among the state’s  
17 goals and the provision of such care should be among the purposes of health care providers and  
18 facilities,” the Legislature called for the establishment of “charity care requirements and related  
19 enforcement provisions for hospitals.” RCW 70.170.010(3).

20 4.17 The Charity Care Act requires hospitals to “develop, implement, and maintain”  
21 charity care policies which “enable people below the federal poverty level access to appropriate  
22 hospital-based medical services” and directs the Washington Department of Health to develop  
23 rules to implement these requirements. RCW 70.170.060(1)(a) and (5).

24 4.18 The charity care regulations promulgated by the Department of Health (“Charity  
25 Care Regulations”) require hospitals to provide full charity care to patients with income at or  
26 below 100 percent of the federal poverty guidelines and reduced-cost care to patients with

1 income between 100-200 percent of the federal poverty guidelines who receive “appropriate  
2 hospital-based services.” WAC 246-453-040.

3 **C. St. Joseph did not adequately notify patients of their charity care rights.**

4 4.19 Low-income patients’ access to affordable medical care is such a vital concern  
5 that Washington law requires that all hospitals provide patients with notice of the availability of  
6 charity care.

7 4.20 The Charity Care Regulations require hospitals to make “publicly available” that  
8 low-income patients may have their hospital charges “waived or reduced.”  
9 WAC 246-453-020(2).

10 4.21 “Publicly available” means both “posted or prominently displayed within public  
11 areas of the hospital” and “provided to the individual in writing and explained, at the time that  
12 the hospital requests information from the responsible party with regard to the availability of  
13 any third-party coverage...” WAC 246-453-010(16).

14 4.22 St. Joseph failed to notify patients of their right to apply for charity care from at  
15 least 2012 until 2016 and provided inadequate notice in 2016 and 2017.

16 **1. Prior to 2016, St. Joseph made information about charity care available  
17 only to patients who requested it directly.**

18 4.23 Before 2016, St. Joseph withheld information about charity care from patients  
19 except when they explicitly requested a charity care application. By failing to disclose the  
20 availability of charity care, St. Joseph gave patients the impression that they had no option but  
21 to pay for their treatment upfront.

22 4.24 Former St. Joseph-based Conifer employees reported that prior to 2016, their  
23 supervisors directed them to “never volunteer information about St. Joseph’s charity care  
24 program to patients, even if they were obviously low-income or homeless.” Rather than freely  
25 providing information about charity care when discussing payment with patients, Conifer  
26

1 trained staff members to provide patients with charity care applications only when a patient  
2 “specifically” requested one.

3 4.25 But even when a patient requested a charity care application, Conifer trained its  
4 St. Joseph-based employees to attempt to collect a deposit from the patient before providing  
5 them with the charity care application. A former Conifer employee reported that her supervisor  
6 trained her to “encourage patients to pay the deposit by indicating that I could only provide  
7 them with a charity care application if they paid a deposit first.”

8 4.26 Conifer supervisors imparted these directions through informal conversations  
9 that they initiated if they observed a staff member freely provide information about charity care  
10 or fail to request a deposit from a patient.

11 4.27 Conifer supervisors also reviewed employees’ collection statistics multiple times  
12 a week. A former St. Joseph-based Conifer employee reported that if her statistics indicated  
13 that she provided a charity care application to a patient instead of collecting a deposit, her  
14 supervisor would “aggressively question me on my interactions with the patient, including why  
15 I felt that particular patient needed a charity care application and whether I made sufficient  
16 attempts to collect a deposit from the patient before providing the application.” She believed  
17 “these interactions were intended to dissuade me from providing information about charity care  
18 to patients.”

19 **2. In 2016, St. Joseph began to provide a written summary of its charity care**  
20 **program to patients *after* concluding its aggressive collection efforts.**

21 4.28 Starting in 2016, Conifer trained its St. Joseph-based staff to provide patients  
22 with a written summary of St. Joseph’s charity care program only after exhausting their  
23 aggressive collection efforts. By withholding information about charity care until upfront  
24 collection concluded, St. Joseph left patients without information about their charity care  
25 options until they could no longer elect to apply for charity care in lieu of paying for their  
26 treatment upfront.

1 4.29 St. Joseph made changes to its collections policies and charity care practices,  
2 including its financial clearance process, throughout 2015 and 2016. These changes did not  
3 bring St. Joseph into compliance with Washington's Charity Care Regulations.

4 4.30 In 2016, Conifer trained its St. Joseph-based employees to continue to request  
5 patients' insurance information and demand upfront payment during financial clearance, but  
6 added a requirement that they provide patients with a written summary of St. Joseph's charity  
7 care program only after making the repeated, coercive demands for payment described above  
8 and well after requesting patients' insurance information.

9 4.31 The Patient Access Director testified that Conifer provided St. Joseph's patients,  
10 including uninsured patients in the emergency room, with information about charity care,  
11 financial assistance and Medicaid after demanding a \$250 deposit in the aggressive manner  
12 described above.

13 4.32 Consistent with this policy, a Conifer employee testified that she "always" tried  
14 "to collect something towards the liability" before providing information about charity care to  
15 patients.

16 4.33 A St. Joseph-based Conifer employee's testimony illustrates the aggressive  
17 collection efforts which preceded her provision of information about charity care to patients.  
18 She testified that if an uninsured patient indicated that they could not afford to pay a \$250  
19 deposit:

20 A. We're to respond and ask if they're able to make a partial payment.

21 Q. Um-hmm.

22 A. Say, Okay. Can you do a hundred dollars?

23 Q. Yeah.

24 A. And if the patient says, No, I'm not able to do that, we are to ask again  
25 and say, Well, can you make even a good faith payment on the account --

26 Q. Yeah.

A. -- at this time? And then if they say no, we offer them -- you know, we  
give them that financial assistance form.

4.34 The same Conifer employee explained that the financial assistance form is "a

1 relatively new form to us” which Conifer staff only began providing to St. Joseph’s patients in  
2 July 2016.

3 4.35 A Conifer director testified that Conifer did not train its St. Joseph-based  
4 employees to provide an oral explanation of its charity care program to patients at any time.  
5 This practice prevented patients with learning differences or difficulty reading from accessing  
6 charity care.

7 **D. St. Joseph did not screen patients for charity care eligibility before attempting to**  
8 **collect payment.**

9 4.36 The Charity Care Regulations seek to prevent aggressive collection from low-  
10 income, charity care qualified patients—like that engaged in by St. Joseph—by requiring that  
11 hospitals refrain from collection of any kind until they screen patients for charity care  
12 eligibility.

13 4.37 The Charity Care Regulations require that hospitals screen patients for charity  
14 care eligibility at or near the time of admission. WAC 246-453-020(1)(b). The “initiation of  
15 collection efforts” is “precluded” until the screening occurs. WAC 246-453-020(1). This  
16 screening must be based on information provided orally by the patient and cannot be delayed  
17 until the patient is able to produce written verification of their income. WAC 246-453-030(1).

18 4.38 A patient should be considered initially qualified for charity care if it appears  
19 that the services provided by the hospital may or may not be covered by insurance or the patient  
20 “may meet the criteria for designation as an indigent person qualifying for charity care. . .”  
21 WAC 246-453-010(19).

22 4.39 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 4.40 From at least 2012 until early 2017, St. Joseph instituted no policies or  
26 procedures to screen patients for charity care eligibility before making the aggressive collection

1 demands described above.

2 4.41 The MECS Director testified that she did not train her staff to ask patients  
3 questions about their income or to recognize patients who might be low-income before  
4 demanding payment from them. Indeed, when the MECS Director was asked if St. Joseph had  
5 a process to determine if a patient was initially qualified for charity care based on their oral  
6 representations—as is required by the Charity Care Act—she testified: “no, that wouldn’t make  
7 sense.”

8 4.42 A St. Joseph-based Conifer employee testified that there was not any “type of  
9 patient,” including low-income patients, who she was directed to not collect from.

10 4.43 In an email sent on May 2, 2014, Mark Shelton, the tax research manager at CHI,  
11 asked Conifer executives how St. Joseph screened patients for charity care eligibility prior to  
12 collection. In response, the MECS Director explained that St. Joseph did not have a pre-  
13 collection charity care screening process in place, but rather only screened patients for charity  
14 care eligibility once they submitted a charity care application.

15 4.44 Because a charity care application requires documentation of income (which  
16 patients typically do not have available at the time of treatment), patients often do not submit  
17 charity care applications until well after their date of treatment. St. Joseph’s failure to screen  
18 patients until they submitted a charity care application led to collection from charity care  
19 qualified patients from their date of treatment until they were able to locate the necessary  
20 documentation to submit a charity care application.

21 **E. When St. Joseph’s patients attempted to apply for charity care, St. Joseph**  
22 **imposed income verification requirements which exceeded the statutory**  
23 **requirements.**

24 4.45 The Charity Care Regulations require that hospitals design a charity care  
25 application process that does not unduly burdened low- income patients with limited access to  
26 computers, printers and financial records.

26 4.46 To this end, the Charity Care Regulations limit the income verification

1 documents that hospitals can require patients produce with charity care applications to *one* of  
2 the following documents:

- 3 (a) A “W-2” withholding statement;
- 4 (b) Pay stubs;
- 5 (c) An income tax return from the most recently filed calendar year;
- 6 (d) Forms approving or denying eligibility for Medicaid and/or state-funded;
- 7 (e) Medical assistance;
- 8 (f) Forms approving or denying unemployment compensation; or
- 9 (g) Written statements from employers or welfare agencies.

10 WAC 246-453-030(2).

11 4.47 From at least 2012 until to 2015, St. Joseph required that patients produce  
12 multiple forms of income verification with their charity care applications.

13 4.48 The MECS Director testified that St. Joseph required that patients produce  
14 multiple months of bank statements, in addition to income verification from the list identified  
15 above, to apply for charity care.

16 4.49 Internal communications between St. Joseph and Conifer personnel show that  
17 St. Joseph required that patients produce multiple forms of income verification, including pay  
18 stubs, bank statements, and tax returns with their charity care applications.

19 4.50 In an email sent to Conifer executives on May 2, 2014, the MECS Director  
20 described St. Joseph’s income verification requirements as “rather extensive” and explained that  
21 St. Joseph denied least 50 percent of charity care applications it received because patients did  
22 not satisfy these excessive and improper income verification requirements.

23 4.51 St. Joseph’s income verification requirements went beyond the scope mandated  
24 by Washington law and placed an undue burden on its low-income patients. These  
25 requirements served to deter patient access to charity care.

1 **F. St. Joseph leadership had knowledge of – but failed to correct – the defects in its**  
2 **charity care program and its aggressive collection practices.**

3 4.52 In September 2014, St. Joseph's Human Resources Director, Jill Karon-Ross,  
4 sent an email to CHI-Franciscan's Senior Vice President for Human Recourses, Sharon Royne  
5 (Royne), and the then-President of St. Joseph, Syd Bersante, titled "Conifer." This email  
6 recounted a St. Joseph staff member's concerns about Conifer's implementation of St. Joseph's  
7 charity care program and its collection practices.

8 4.53 According to the email, the staff member reported that she received "at least one  
9 patient complaint daily about our billing/collection process." She referred "these complaints to  
10 billing but feels badly because she does not think they are being adequately taken care of."

11 4.54 The email recounted a complaint the staff member received from a patient who  
12 was informed by Conifer during pre-registration for heart surgery "that after insurance there  
13 would be a \$200,000 bill and asked how he would like to pay for it." This payment demand  
14 caused the patient to consider "if he wanted to have the surgery."

15 4.55 The staff member also recounted her difficulty in accessing charity care for her  
16 personal medical bills. After she submitted a charity care application, St. Joseph reassured her  
17 that it placed a collection hold on her accounts. Despite this reassurance, she was served with  
18 what appeared to be a debt collection lawsuit for these accounts shortly thereafter.

19 4.56 Royne forwarded the email to CHI-Franciscan's Senior Vice President of  
20 Mission, Dianna Kielian, and CHI-Franciscan's Chief Financial Officer, Mike Fitzgerald  
21 (Fitzgerald), and stated: "this is terrible news and from a very credible employee." She  
22 explained that the staff member's concerns were "exactly" what SEIU (the labor union that  
23 organizes workers at St. Joseph) "is telling us happens on a regular basis."

24 4.57 Fitzgerald forwarded the email to Romina White, a Conifer executive director,  
25 stating that "we probably need to shore up our processes. I'm afraid this is going to backfire on  
26 us if we are not very careful very soon." Fitzgerald then requested a meeting to discuss these

1 issues.

2 4.58 The Patient Access Director testified that the staff member's concerns were  
3 "probably very accurate because we were receiving complaints."

4 4.59 Upon information and belief, St. Joseph made no changes to the aggressive  
5 collection practices identified in this email, nor did it amend or terminate its relationship with  
6 Conifer, after this exchange.

7 **G. These Practices Suppressed the Amount of Charity Care Provided by St. Joseph.**

8 4.60 St. Joseph's failure to provide notice of and screen patients for charity care  
9 eligibility, emphasis on aggressive collections, and its unduly burdensome charity care  
10 application process reduced patient access to charity care.

11 4.61 The Washington Department of Health issues an annual report which identifies  
12 the amount of charity care provided by every hospital, how this amount compares to the  
13 hospital's Adjusted Patient Service Revenue (patient service revenue less Medicare and  
14 Medicaid revenue) (Adjusted Revenue) in percentage terms, and the average percentage of  
15 charity care provided by hospitals in each geographical region of the state. St. Joseph is in the  
16 Puget Sound Region, which is comprised of Pierce, Snohomish, Island, Skagit, Whatcom,  
17 Clallam, and Jefferson counties.

18 4.62 In 2012 the hospitals in the Puget Sound Region provided an average of  
19 6.37 percent of their Adjusted Revenue in charity care. St. Joseph provided only 4.26 percent of  
20 its Adjusted Revenue in charity care that year.

21 4.63 In 2013 the hospitals in the Puget Sound Region provided an average of  
22 6.91 percent of their Adjusted Patient Service Revenue in charity care. But while the regional  
23 average rose, St. Joseph's rate *fell*: it provided only 4.14 percent of its Adjusted Revenue in  
24 charity care that year.

25 4.64 In 2014 the hospitals in the Puget Sound Region provided an average of  
26 4.6 percent of their Adjusted Patient Service Revenue in charity care. St. Joseph provided only

1 3.72 percent of its Adjusted Revenue in charity care that year.

2 4.65 In 2015 the hospitals in the Puget Sound Region provided an average of  
3 2.37 percent of their Adjusted Revenue in charity care. St. Joseph provided only 1.74 percent of  
4 its Adjusted Revenue in charity care that year.

5 **V. CLAIM FOR VIOLATION OF THE CONSUMER PROTECTION ACT,**  
6 **RCW 19.86.020**

7 5.1 Plaintiff realleges paragraphs 1.1 through 4.65 and incorporates them as if fully  
8 set forth herein.

9 5.2 Upon information and belief, St. Joseph engaged in unfair and deceptive conduct  
10 in trade or commerce affecting tens of thousands of Washington consumers, including but not  
11 limited to the following:

12 5.2.1 Using unfair, deceptive and coercive collection practices, including  
13 demanding payment three times by asking “How would you like to pay today? Cash, check or  
14 credit card?” or “How would you like to take care of that today? Cash, check or credit card?”  
15 instead of “Can you pay today?” or “Are you able to pay today?”

16 5.2.2 Deceiving patients about their payment and financial assistance options  
17 by concealing the availability of charity care, failing to provide verbal and written notice of the  
18 availability of charity care and withholding information about the availability of charity care  
19 from patients until after the conclusion of upfront collection efforts.

20 5.2.3 Unfairly demanding payment from patients without screening them for  
21 charity care eligibility.

22 5.2.4 Deceptively indicating to patients that they could not receive a charity  
23 care application unless they paid a deposit.

24 5.2.5 Unfairly diminishing low-income patient’s access to charity care by  
25 requiring income documentation that exceeded that permitted by the Charity Care Regulations.

26 5.2.6 Unfairly causing patients to pay for medical expenses and incur medical

1 debt for which they should not have been responsible.

2 5.3 The conduct described in paragraphs 1.1 through 5.2 constitutes unfair and  
3 deceptive acts or practices in trade or commerce in violation of RCW 19.86.020 and is contrary  
4 to the public interest.

5 5.4 These acts or practices occurred in trade or commerce, specifically the provision  
6 of and payment for medical services by Washington residents.

7 5.5 These practices affected the public interest because they impacted tens of  
8 thousands of Washington consumers' ability to access affordable health care. These practices  
9 constituted a pattern of conduct which St. Joseph committed in the course of its business and of  
10 which there is a real and substantial potential for repetition.

#### 11 VI. PRAYER FOR RELIEF

12 WHEREFORE, Plaintiff, State of Washington, prays that this Court grant the following  
13 relief:

14 6.1 That the Court adjudge and decree that Defendant has engaged in the conduct  
15 complained of herein.

16 6.2 That the Court adjudge and decree that the conduct complained of in the  
17 Complaint constitutes unfair or deceptive acts or practices in violation of the Consumer  
18 Protection Act, RCW 19.86.

19 6.3 That the Court issue a permanent injunction enjoining and restraining Defendant  
20 and its representatives, successors, assigns, officers, agents, servants, employees, and all other  
21 persons acting or claiming to act for, on behalf of, or in active concert or participation with  
22 Defendant from continuing or engaging in the unlawful conduct complained of herein.

23 6.4 That the Court assess civil penalties, pursuant to RCW 19.86.140, of up to  
24 \$2,000 per violation against Defendant for each and every violation of RCW 19.86.020 alleged  
25 herein.

26 6.5 That the Court make such orders pursuant to RCW 19.86.080 as it deems

1 appropriate to provide for restitution to consumers of money or property acquired by Defendant  
2 as a result of the conduct complained of herein.

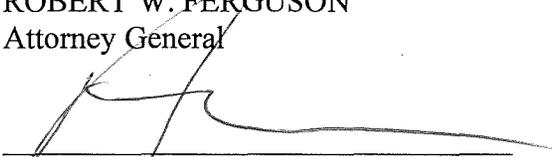
3 6.6 That the Court awards the State of Washington all costs incurred in bringing this  
4 action, including reasonable attorneys' fees.

5 6.7 That the Court order such other relief as it may deem just and proper to fully and  
6 effectively dissipate the effects of the conduct complained of herein, or which may otherwise  
7 seem proper to the Court.

8 DATED this 1st day of September, 2017.

9 Presented by:

10 ROBERT W. FERGUSON  
11 Attorney General

12   
13 \_\_\_\_\_  
14 AUDREY UDASHEN, WSBA #42868  
15 ROBERT A. HYDE, WSBA #33593  
16 Assistant Attorneys General  
17 Attorneys for Plaintiff State of Washington  
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# EXHIBIT A

# Appropriate vs. Inappropriate Phrases

The goal is to avoid phrases that give patients the option to not pay or cause the patient to get defensive.

Appropriate	Inappropriate
Here are some options for you...	Can you or will you...
We accept...	Will you... I need...
May I suggest...	Are you going to pay?
As a service to you...	Do you want to pay?
How can you take care of that today?	We expect payment...



# EXHIBIT B

## ED - POS Collection Scripting

### Patient Education/1<sup>st</sup> POS Collection Attempt:

PA Rep Reviews - Clear Quote & Insurance Benefit Breakdown with Patient Stating the Following:

**After verifying your insurance and benefits, the estimated price is based on the following:**

Self-Pay Patients:

- Your deposit is \$\_\_\_\_\_ today.
- We accept cash, credit/debit card and check.

**Commercial/Private Insurance Patient:**

- Your copayment is \$\_\_\_\_\_ today.
- Coinsurance based on acuity level \$\_\_\_\_\_. **Ex. Acuity level 3 – 20% coinsurance is \$216.60.**
- We accept cash, credit/debit card and check.

**How Would You Like to Take Care of This Today?**

If Patient Responds:

**“Unfortunately, I Am Unable to Pay That Amount Today”**  
*(Move on to 2<sup>nd</sup> Attempt)*

### 2<sup>nd</sup> POS Collection Attempt:

PA Rep Response 2<sup>nd</sup> Attempt:

**Are You Able to Pay a Portion of Your Responsibility/Liability Today?**

**Ex. If the Patient’s responsibility/liability is \$100. Ask the patient if he/she can pay half of the total amount.**

If Patient Responds:

**“No” or “No, That Amount Is Still More Than I Can Pay”** *(Move on to 3<sup>rd</sup> Attempt)*

### 3<sup>rd</sup> POS Collection Attempt:

PA Rep Response 3<sup>rd</sup> Attempt:

**Are You Able to Pay a Good Faith Deposit Today? (Ask what amount the patient is able to pay...e.g. \$50 or \$25)**

If Patient Responds:

**“No” or “No, But I Can Call Back and Pay Within A Couple of Days”** *(Please provide the patient with the green copay collection sheet so they can call back to our department – ED)*

## OP/Main Admitting - POS Collection Scripting

### Patient Education/1<sup>st</sup> POS Collection Attempt:

PA Rep Reviews - Clear Quote & Insurance Benefit Breakdown with Patient Stating the Following:

**After verifying your insurance and benefits, the estimated price is based on the following:**

- You have a deductible of \$\_\_\_\_\_, of which \$\_\_\_\_\_ has been met.
- Once the deductible has been met, the insurance will pay \_\_\_\_%.
- After meeting the Out of Pocket maximum (OOP) of \$\_\_\_\_\_, the insurance will cover 100% for approved/authorized services.
- Your estimated cost for today’s visit is \$\_\_\_\_\_.
- We accept cash, credit/debit card and check.

**How Would You Like to Take Care of This Today?**

If Patient Responds:

**“Unfortunately, I Am Unable to Pay That Amount Today”**  
*(Move on to 2<sup>nd</sup> Attempt)*

### 2<sup>nd</sup> POS Collection Attempt:

PA Rep Response 2<sup>nd</sup> Attempt:

**Are You Able to Pay a Portion of Your Responsibility/Liability Today?**

**Ex. If the Patient’s responsibility/liability is \$500. Ask the patient if he/she can pay half of the total amount.**

If Patient Responds:

**“No” or “No, That Amount Is Still More Than I Can Pay”** *(Move on to 3<sup>rd</sup> Attempt)*

### 3<sup>rd</sup> POS Collection Attempt:

PA Rep Response 3<sup>rd</sup> Attempt:

**Are You Able to Pay a Good Faith Deposit Today? (Ask what amount the patient is able to pay...e.g. \$100 or \$50 or \$25)**

If Patient Responds:

**“No” or “No, But I Can Call Back and Pay Within A Couple of Days”** *(Please provide the patient with the green copay collection sheet so they can call back to our department – OPC/Main Admitting)*