

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

DOMINIQUE HILL,

Pro Se Plaintiff,

v.

Prisma Health, a nonprofit corporation f/k/a SC Health
Company,

Defendant,

REVMD PARTNERS LLC, a limited liability company,

Third Party Defendant.

Case No.:

COMPLAINT

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF FOR VIOLATION OF:**

- 1) HEALTH INSURANCE PORTABILITY AND ACCOUNTING ACT; AND**
- 2) THE FAIR DEBT COLLECTION PRACTICES ACT**

JURY TRIAL DEMANDED

COMES NOW Dominique Hill (“Plaintiff” or “Plaintiff Hill”) by and through her natural person brings this action seeking damages against Defendant Prisma Health (“Prisma” or “Defendant”); and Third Party Defendant REVMD PARTNERS LLC (“Rev” or “Third Party Defendant”). In support thereof, Plaintiff Hill states as follows:

PARTIES

- 1. Plaintiff Hill is a citizen of Columbia, South Carolina.
- 2. Upon information and belief Prisma is a nonprofit corporation organized and existing under the laws of South Carolina with its principal place of business located in 300 E. McBee STE 500, Greenville, South Carolina 29601.
- 3. Rev is an Illinois limited liability company with its principal place of business located in 111 Pasquinelli Dr Ste 400, Westmont, IL, 60559.
- 4. Rev is a “debt collector” as defined in Section 803(b) of the Fair Debt Collection Act (the “FDCPA”), 15 U.S.C. § 1692a(6), and is a non-affiliate third party as defined in § 6802(b)(B) of the GLB Act.

JURISDICTION AND VENUE

- 5. This Court has federal question subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 because the Plaintiff assert claims that necessarily raise substantial disputed federal issues under the Health

Insurance Portability and Accountability Act of 1996 (“HIPAA”), and the Federal Trade Commission Act (the “FTC Act”), 15 U.S.C. § 45(a).

6. Prisma has sufficient minimum contacts in the State of South Carolina, as it is a domestic, nonprofit corporation organized under the laws of the State of South Carolina and conducts the majority (if not all) of its business in this District and throughout the United States, thus rendering the exercise of personal jurisdiction by this Court proper and necessary.
7. Rev is a non-affiliate third party of Prisma and it also has sufficient minimum contacts in the State of South Carolina, as it is a foreign limited liability company, and conducts business in this District and throughout the United States, thus rendering the exercise of personal jurisdiction by this Court proper and necessary.
8. Venue is proper in this District under 28 U.S.C. § 1391 because a substantial part of the events and omissions giving rise to these claims occurred in this District.

DEFINITIONS

9. HIPAA breach is defined in HIPAA section 164.402—Improper Disclosures, is the acquisition, access, use, or disclosure of protected health information in a manner not permitted which compromises the security or privacy of the protected health information.
10. The term "consumer," as used in this Complaint means any natural person obligated or allegedly obligated to pay any debt, as "debt" is defined in Section 803(5) of the FDCPA, 15 U.S.C. § 1692a(5).
11. Accordingly to HIPAA, the term disclosure refers to the release, transfer, or provision of protected health information, i.e., a doctor’s office would be the entity holding a patient’s private information, and anyone else who requests to see that information (such as a health insurance carrier) would be an outside entity.
12. HIPAA’s Privacy Rule effective compliance date of April 14, 2003 defines PHI as follows, in relevant part:
“... any information held by a covered entity concerns health status, the provision of health status, the provision of healthcare, or payment for healthcare that can be linked to and individual.”
13. HIPAA defines electronic protected health information as e-PHI for PHI that is created, stored, transmitted, or received electronically. Furthermore, its Security Rule focuses on electronic health information; its Privacy Rule protects health information in any format, whether it’s paper information or electronic information.

14. According to the Federal and State laws, an encounter is defined as any patient visit with a physician or other qualified health care provider (such as a nurse practitioner, therapist, or physician assistant) to diagnose a condition or treat an illness or injury. To document a patient encounter, the provider must include the following information, at a minimum:
- a. The patient's name;
 - b. The date of the encounter;
 - c. The reason for the encounter;
 - d. A documented medical history and physical examination;
 - e. A review of laboratory and diagnostic tests if performed drugs;
 - f. A diagnosis;
 - g. A plan of care or notes that identified the procedures and treatment given; and
 - h. The signature of the provider who saw the patient.

SECTION FIVE OF THE FTC ACT

15. The FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58.
16. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits "unfair or deceptive acts or practices in or affecting commerce." Misrepresentations or deceptive omissions of material fact constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act.

COMMERCE

17. At all times material to this Complaint, Rev have maintained a substantial course of trade in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

NATURE OF THIS ACTION

18. Plaintiff Hill states her protected health and personal identifiable information has been unlawfully disclosed by Prisma and accessed by a non-affiliate third party *i.e.*, Rev and thus the reason for this Complaint against both Prisma and Rev.
19. The Health Insurance Portability and Affordability Act ("HIPAA") prohibits any retaliation against individuals such as Plaintiff Hill who files a civil complaint.
20. HIPAA (i) passed in 1996, (ii) guards the privacy and security of protected health information ("PHI") and electronic protected information, and (iii) ensures disclosure of PHI only in appropriate circumstances.

21. HIPAA considers among all others (a) diagnoses, (b) treatment information, (c) medical test results, (d) prescription information, and (e) mental health issues as PHI.
22. The *Administrative Simplification* provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA, Title II) required the Secretary of HHS to publish national standards for the security of electronic protected health information e-PHI, electronic exchange, and the privacy and security of health information.
23. HIPAA defines Proper PHI Disclosure as receiving the individual's expressed written authorization to disclose protected health information as stated above.
24. HIPAA also considers national identification numbers and demographic information such as (a) birth dates, (b) gender, (c) ethnicity, (d) contact and (e) emergency contact information as PHI, and (f) medical record numbers.
25. Without expressed written authorization such as disclosure of Plaintiff Hill's protected health information stated above violates HIPAA's Privacy Rules and warrants a severe penalty and may even be determined to be a criminal act.
26. In the ordinary course of receiving treatment and health care services from Prisma, patients such as Plaintiff Hill are required to provide Prisma with sensitive, personal and private information such as follows:
 - a. Name, address, phone number and email address;
 - b. Date of birth;
 - c. Demographic information;
 - d. Social Security number;
 - e. Driver's license or identification card numbers;
 - f. Information relating to individual medical history;
 - g. Insurance information and coverage;
 - h. Information concerning an individual's doctor, nurse or other medical providers;
 - i. Photo identification;
 - j. Employer information; and
 - k. Other information that may be deemed necessary to provide care.

HIPAA defines the above listed items a through k as PHI and PII.

27. The HIPAA privacy standards include guidelines for electronic medical records. The information in a medical record is the documentation that relates to a (a) patient's illness, (b) course of treatment, and (c) care.
28. According to HIPAA, medical records are considered to be legal documents, and they may be very important documentation in court cases i.e., if a physician or a hospital is sued by a patient.
29. According to Federal and State laws, health care professionals are required to include specific information in a patient's medical record to document every encounter with the patient.
1. HIPAA—Security Rule, addresses the creation, receipt, maintenance, and transmission of electronic PHI by covered entities and business associates. Furthermore, it describes the administrative, physical, and technical safeguards that are needed to keep protected health information safe, and prevent unintended disclosures.
2. According to the HIPAA—Security Rule, covered entities must have security which includes *administrative standards* in place to protect PHI that's stored or transmitted in electronic form (that is, on computer systems) from improper usage and disclosure.
3. Prisma also gathers certain medical information about patients and creates records of the care it provides individuals such as Plaintiff Hill.
4. Prisma receive private and personal information from other individuals and or organizations that are part of a patient's "care team", such as referring physicians, patients' other doctors, patient's health plan(s), close friends, and or family members.
5. Prisma's employees, staff, entities, clinics, sites, and locations my share patient information with each other for various purposes, as disclosed in the HIPAA Notice of Privacy Practices (the "Privacy Notice").
6. Plaintiff Hill's private and confidential information which was entrusted in Prisma improperly disclosed her protect health information to Rev.
7. Plaintiff Hill did not provide expressed written consent to Prisma to share her private and confidential health information with a non-affiliated third party such as Rev.
8. Furthermore, if Prisma claims to have such said authorization to release such stated authorization stated above, Plaintiff Hill declares she unknowingly participated while under unsurmountable pain or distress at all times during dates of service listed on Plaintiff Hill's *Transaction Total By Date Report*; Plaintiff also

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