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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

IN THE MATTER OF:

PROVIDENCE HEALTH SYSTEM-
OREGON,

RESPONDENT.

Case No. **0609-10176**
**ASSURANCE OF VOLUNTARY
COMPLIANCE**

1.

Providence Health System-Oregon is a domestic nonprofit corporation and is the Respondent herein. This agreement is between Respondent and the Oregon Department of Justice (DOJ) acting pursuant to ORS 646.632(1).

2.

On or about December 30-31, 2005, a person stole Backup Media from an employee of Respondent.

PROCEDURE

3.

This Assurance of Voluntary Compliance (AVC) is a settlement of a disputed matter. It shall not be considered an admission of a violation for any purpose. Respondent and DOJ agree that no provision of this AVC operates as a penalty, forfeiture, or punishment under the Constitution of the United States, the Constitution of Oregon, or under any other provision of law.

4.

Respondent waives receipt of notice from the State of Oregon pursuant to ORS 646.632(2).

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5.

Nothing in this AVC shall constitute a waiver, settlement, or release of any private right of action or claim arising from the theft of Backup Media on December 30-31, 2005.

6.

Respondent understands and agrees that this AVC applies to Respondent and its current principals, officers, directors, agents, employees, representatives, successors and assigns, jointly and severally, while acting personally, or through any corporation or other business entities, whose acts, practices, or policies are directed, formulated, or controlled by Respondent.

7.

Respondent and its attorneys agree and understand that, following acceptance of the AVC by DOJ, DOJ may communicate directly with Respondent for the purpose of executing and enforcing the terms of this agreement, and resolving future consumer complaints.

8.

Respondent understands and agrees that, if this AVC is accepted by DOJ, it will be submitted to the Circuit Court of the State of Oregon for Multnomah County for approval and, if approved, will be filed with the Court pursuant to ORS 646.632(2).

9.

Respondent waives any further notice of submission to and filing with the Court of this AVC. Respondent agrees to accept service of a conformed copy by prepaid first-class mail sent to the addresses following its signature.

10.

If monies that are agreed to be paid in this AVC are not paid timely, DOJ may convert the AVC to a money judgment against Respondent under ORS 646.632(2) without notice to Respondent. Respondent agrees that a copy of the money judgment may be sent first-class mail to the address following its signature.

1 11.

2 Respondent understands that violation of any of the terms of this Assurance of
3 Voluntary Compliance may result in contempt of court proceedings, civil penalties of up to
4 \$25,000 for each violation, and such further relief as the Court may deem appropriate as
5 provided in ORS 646.632(4), ORS 646.642(1), and ORS 646.642(2).

6 12.

7 The parties acknowledge that no other promises, representations, or agreements of
8 any nature have been made or entered into by the parties. The parties further acknowledge that
9 this AVC constitutes a single and entire agreement that is not severable or divisible, except that
10 if any provision herein is found to be legally insufficient or unenforceable, the remaining
11 provisions shall continue in full force and effect.

12 **DEFINITIONS**

13 13.

14 "Backup Media" means tapes and discs containing Patient information that is
15 retained for purposes of retrieving information in the event the original source thereof becomes
16 unavailable.

17 "Patient" means an individual or who received medical care or advice through
18 Respondent or the individual's personal representative as that term is described in 45 CFR
19 164.502(g) and ORS 192.519(10).

20 **REMEDIES**

21 14.

22 Based on the information presently known, DOJ believes that the actions required
23 of Respondent under this AVC are appropriate for Patients affected by the theft of Backup Media
24 on December 30-31, 2005. Respondent shall not represent or imply that DOJ acquiesces or
25 approves of business practices other than those set forth in this AVC. DOJ's decision to settle
26 this matter or to otherwise limit current or future enforcement action does not constitute approval

1 or imply authorization for business practices not set forth in this AVC.

2 15.

3 Effective immediately upon execution by Respondent of this AVC, Respondent
4 agrees to adhere to each of the following requirements:

5 1. Continue to provide credit monitoring services upon the request of a Person
6 whose information was on the stolen Backup Media. Monitoring must last no less than 12
7 months from the time the request is made. A Patient for whom Respondent had a valid mailing
8 address at the time of mailing notice of the availability of credit services must make the request
9 for the monitoring services within 12 months of receiving the notice. A Patient for whom
10 Respondent did not have a valid mailing address at the time of mailing notice of the availability
11 of credit services must make the request for the monitoring services by February 28, 2007. No
12 later than February 1, 2007, Respondent, after consultation with DOJ, will decide whether to
13 exercise its option under the Kroll Background America, Inc. (Kroll) contract and extend credit
14 monitoring services or part of them for an additional year so that, if appropriate, a Patient may
15 receive credit monitoring services for a total of two years.

16 2. Provide credit restoration services through Kroll to a Patient whose information
17 was on the stolen Backup Media if, after an investigation by Kroll, Providence cannot show that
18 the credit was obtained through an act other than the loss of Providence's records. These credit
19 restoration services must be available until December 31, 2007. On or about December 31,
20 2007, Respondent, after consultation with DOJ, will decide whether to exercise its option and
21 extend credit restoration services upon the same terms as those who request such services for up
22 to an additional two years.

23 3. Continue its efforts to improve its security program and will ensure that the
24 program is comprehensive, includes adequate measures of securing Backup Media, and is
25 reasonably designed to protect the security, confidentiality, and integrity of all information
26 collected from or about Patients.

1 of Backup Media as a condition of participation in credit monitoring or restoration services set
2 forth in this AVC.

3 17.

4 Respondent shall pay:

5 a. Costs for credit monitoring and restoration services as provided by the agreement
6 between Respondent and Kroll dated February 9, 2006;

7 b. Costs for credit monitoring and restorations services if the agreement between
8 Respondent and Kroll is extended beyond December 31, 2007, the current expiration date.


9 c. Claims by a Patient for direct financial loss that are established to Respondent's
10 satisfaction as resulting from the theft of Backup Media stolen December 30-31, 2005.

11 18.

12 Upon execution of this AVC, Respondent shall pay the sum of NINETY-FIVE
13 THOUSAND, SEVEN HUNDRED AND SIXTY-FOUR DOLLARS (\$95,764) to DOJ for
14 deposit to the Consumer Protection and Education Revolving Account established pursuant to
15 ORS 180.095. Said sum shall be used by DOJ as provided by law.

16 **APPROVAL BY COURT**

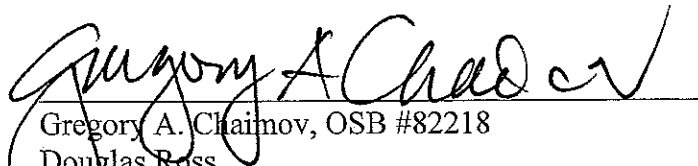
17 APPROVED FOR FILING and SO ORDERED this ^{SEP 26 2006} day of September,
18 2006.

19 /s/ DALE R. KOCH 
20 _____
21 Circuit Court Judge

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1 REVIEW BY RESPONDENT'S ATTORNEY

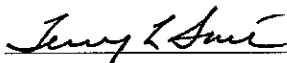
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3 Approved as to form.

4 
5 Gregory A. Chaimov, OSB #82218
6 Douglas Ross
7 Attorneys for Respondent

8 Corporate Respondent

9 I, TERRY L. SMITH, being first duly sworn on oath depose and say that I am the
10 Chief Financial Officer and Chief Operating Officer of Providence Health Systems—Oregon and
11 am fully authorized and empowered to sign this Assurance of Voluntary Compliance on behalf
12 of Providence Health Systems—Oregon and bind the same to the terms hereof.

13 Providence Health System-Oregon

14 

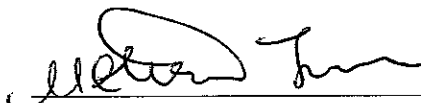
15 Terry L. Smith
16 Print Name

17 Chief Financial Officer and Chief Operating Officer
18 Title

19 Address 1235 NE 47th Avenue, Suite 299
20 Portland, OR 97213

21 SUBSCRIBED AND SWORN to before me this 18th day of September,
22 2006.



27 
28 Notary Public for Oregon
29 My Commission expires: 6/22/09

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ACCEPTANCE OF DOJ

Accepted this 19th day of September, 2006.

HARDY MYERS
Attorney General

By:  _____

Name: Drew Lianopoulos OSB #92083
Assistant Attorney General
Oregon Department of Justice
1162 Court Street NE
Salem, OR 97301
Drew.Lianopoulos@state.or.us
503-947-4333