

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

STATE OF INDIANA EX REL. ROKITA,

Plaintiff,

v.

INDIANA UNIVERSITY HEALTH, INC.

and

INDIANA UNIVERSITY HEALTHCARE
ASSOCIATES, INC. d/b/a IU HEALTH
PHYSICIANS,

Defendants.

Case No. 1:23-cv-1665

NOTICE OF DISMISSAL WITHOUT PREJUDICE

The State of Indiana, by counsel, notifies the Court that pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i) it is dismissing this action without prejudice and in support states as follows:

1. The State initiated this action on September 15, 2023, by filing a complaint alleging seven claims for relief: failure to implement, or failure to follow administrative, technical, and physical safeguards to protect the privacy of protected information; failure to document disclosures of protected health information, failure to implement, apply, and document sanctions; failure to appropriately train its workforce, failure to notify patient of breach, failure to mitigate harm, and violations of the Indiana Deceptive Consumer Sales Act.
2. In response, Defendant filed a motion to dismiss on November 14, 2023, which the Court granted on June 21, 2024. The state filed an amended complaint on July 22, 2024. An

answer to the amended complaint has not been filed. Defendant has not moved for summary judgment.

3. The initial and amended complaints were filed under the State's long held and critically important interest in protecting the health and welfare of its residents and those that receive healthcare within its borders, including the protection of an individual's medical privacy.
4. The State's protective and regulatory oversight authority includes guarding the crucial role that confidentiality plays between a physician and his or her patient because it is confidentiality and privacy between a healthcare provider and a patient that creates the trust necessary for healthcare standards to be maintained and improved over time.
5. Following the case conference conducted in this matter on August 1, 2024, counsel for the parties discussed the current state of IU Health's program to protect patient privacy. Further, since that date, IU Health has supplemented its disclosure of documents, including its *Corrective Actions* policy.
6. As a result of the discovery obtained in this litigation, including the most recent supplements, the Attorney General has been able to verify that IU Health has undertaken the following actions since July 1, 2022, all in satisfaction of the deficiencies claimed in the Attorney General's Complaint and Amended Complaint:
 - a. IU Health has continued to train employees specifically that they should avoid talking about patients in public areas.
 - b. IU Health has informed its employees that if they are contacted by a reporter, they are required to notify Public Relations or IU Health Corporate Communications prior to any responsive communication so that management can verify that any patient authorizations required have been obtained.

- c. IU Health conducted employee training on what constitutes Protected Health Information (“PHI”), providing several scenarios where a name is not mentioned, but the information provided can still be tied back to a patient. The scenarios in the training are like the internationally publicized situation of the patient of IU Health physician Dr. Caitlin Bernard, where that physician shared her patient’s information with the press which was ultimately tied back to the patient.
 - d. In addition to the most recent supplements, the State received a copy of the July 12, 2022 edition of *The Daily*, IU Health’s internal newsletter with a reminder about the importance of patient privacy and the importance of not discussing patient information in public spaces, and a reminder that any combination of information that can be used to tie back to a specific patient may become a violation of privacy according to the Health Insurance Portability and Accountability Act (HIPAA).
 - e. The State was also provided with the PowerPoint training conducted during the monthly Privacy & Security Meeting on June 11, 2022, on the topic of what information may constitute PHI, with a reminder that, “Team members should **never** discuss IU Health patients with news media outlets unless approved in advance by IU Health Corporate Communications, which will confirm a signed patient authorization is in place for public disclosures.” (Emphasis in original). The State understands that the training conducted on July 11, 2022, has been incorporated into IU Health’s standard training.
7. The Attorney General’s Office has verified that these actions represent efforts to better protect the medical privacy of Indiana residents and other individuals receiving healthcare

in Indiana and are not reflective of media statements IU Health has made to the contrary, as alleged in Plaintiff's Complaint and Amended Complaint.

8. Pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i), a plaintiff may dismiss an action without a court order by filing a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment.
9. Considering IU Health's actions as verified from discovery during this litigation, including the most recent supplements, the State and judicial resources are better served on other matters.

WHEREFORE, the State respectfully notifies the Court that it is dismissing this action without prejudice.

Respectfully submitted,

THEODORE E. ROKITA
INDIANA ATTORNEY GENERAL
Attorney No. 18857-49

Date: 08/07/2024

By: /s/ Douglas S. Swetnam

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CERTIFICATE OF SERVICE

I do hereby certify that the foregoing was filed using the Court's ECF system on March 20, 2024, and counsel below may access the foregoing through that system:

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