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MATTHEW J. PLATKIN, Attorney General of:  
New Jersey, and SUNDEEP IYER, Director of :  
the New Jersey Division on Civil Rights, :

*Plaintiffs,*

v.

VIRTUA HEALTH, INC., VIRTUA-WEST :  
JERSEY HEALTH SYSTEM, INC., VIRTUA- :  
MEMORIAL HOSPITAL BURLINGTON :  
COUNTY, INC., AND VIRTUA OUR LADY :  
OF LOURDES HOSPITAL, INC., :

*Defendants.*

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION – CAMDEN COUNTY

DOCKET NO.: \_\_\_\_\_

CIVIL ACTION

**COMPLAINT**

Matthew J. Platkin, Attorney General of the State of New Jersey (the “Attorney General”) and Sundeep Iyer, Director of the New Jersey Division on Civil Rights (the “Director,” and together with the Attorney General, “Plaintiffs”), by way of Complaint, hereby allege the following:

## INTRODUCTION

1. This case seeks to remedy unlawful discrimination against pregnant patients by the Virtua Health, Inc., network of hospitals, which includes hospitals in Voorhees, Mount Holly, and Camden, New Jersey run by Virtua West Jersey Health System, Inc., Virtua-Memorial Hospital Burlington County, Inc., and Virtua Our Lady of Lourdes Hospital, Inc., respectively. Since 2018, Virtua<sup>1</sup> has maintained a policy requiring universal drug testing of all pregnant patients who are admitted to its Labor and Delivery or High-Risk Obstetrics Units. Virtua has regularly administered those universal drug tests without obtaining informed consent from pregnant patients. And when pregnant patients receive a positive test result, Virtua will automatically report them to the Division of Child Protection and Permanency (“DCP&P”) for possible child abuse or neglect—even when the positive test occurs only because the patient ate a poppy seed bagel. Virtua’s drug testing policies and practices unlawfully discriminate based on pregnancy and sex in violation of the New Jersey Law Against Discrimination (“LAD”). N.J.S.A. 10:5-1 to -50.

2. This Complaint arises from an investigation conducted by the New Jersey Division on Civil Rights (“DCR”) in response to multiple verified complaints filed by pregnant women who gave birth at Virtua Voorhees Hospital in Voorhees, New Jersey. DCR received verified complaints from patients K.K. and B.C., among others.<sup>2</sup> In conducting its investigation, DCR examined complainants’ allegations that Virtua Voorhees Hospital, which operates a place of public accommodation, engaged in unlawful discrimination based on pregnancy and sex in

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<sup>1</sup> This Complaint refers to Virtua Health, Inc., Virtua-West Jersey Health System, Inc., Virtua-Memorial Hospital Burlington County, Inc., Virtua Our Lady of Lourdes Hospital, Inc., collectively as “Virtua” or “Defendants.”

<sup>2</sup> K.K. and B.C. withdrew their DCR administrative complaints on September 26, 2024, electing to have their claims raised in this forum.

violation of the LAD. DCR also examined the drug testing and informed consent policies in place across Virtua facilities to assess whether a broader pattern of discrimination affected pregnant patients at these facilities across the state.

3. DCR's investigation revealed that Virtua's drug testing policy discriminates on its face by singling out pregnant patients for differential treatment. Virtua requires universal drug testing of all pregnant patients admitted to Virtua for inpatient care in its Labor and Delivery and High-Risk Obstetrics Units. But pregnant patients seeking admission to these Units are the only category of patients subject to universal drug testing in Virtua's hospitals. Indeed, Virtua does not have a comparable blanket drug testing requirement for any other category or class of non-pregnant patients admitted to Virtua's hospitals. Virtua's universal drug testing policy for admitted pregnant patients conflicts with accepted standards of medical care for pregnant patients, which recommend against universal drug testing, in part because of the high rate of false positive drug tests. It also conflicts with Virtua's own policies for pregnant patients receiving outpatient prenatal care, which do not mandate universal drug testing. Virtua's policy for pregnant patients seeking inpatient care targets patients for universal drug testing on the basis of pregnancy and sex in violation of the LAD.

4. This universal drug testing policy causes significant harm to pregnant patients. Under state regulation, any positive drug test of a pregnant person—no matter its possible cause—must be reported to DCP&P. Consequently, Virtua's universal drug testing policies and practices regularly result in pregnant patients disproportionately being reported to DCP&P for suspected child abuse or neglect even when they test positive for reasons having nothing to do with substance abuse, such as consumption of prescribed drugs, over-the-counter medication, or foods like poppy seed bagels. Pregnant patients who are reported to DCP&P may be subjected to intensive months-

long investigations for suspected child abuse. Those investigations may result in patients who have just given birth not receiving immediate clearance to take their newborn home with them from the hospital; in unannounced and intrusive home visits and interviews with the parent's other minor children; and in patients who have just given birth ultimately fearing that their newborn may be taken away from them by the government.

5. Virtua's drug testing practices also discriminate against patients on the basis of pregnancy and sex because Virtua's staff regularly fail to obtain informed consent from pregnant patients prior to administering a drug test. Virtua's drug testing policy mandates that hospital staff obtain informed consent from all pregnant patients prior to mandatory drug testing. In practice, however, Virtua's staff regularly deviates from that policy.

6. DCR's investigation revealed that multiple pregnant patients, including K.K. and B.C., were subjected to mandatory drug testing without ever being told that their urine sample would be used to conduct a drug test. Virtua's practice of failing to obtain informed consent singles out pregnant patients for differential treatment since, on information and belief, Virtua does not maintain a practice of administering drug tests to non-pregnant patients without first obtaining their informed consent. Virtua's practice also violates the fundamental right to privacy, and Plaintiffs seek to vindicate that right through the New Jersey Civil Rights Act, N.J.S.A. 10:6-2(a) ("NJCRA").

7. The facts of K.K.'s and B.C.'s cases illustrate the harms stemming from Virtua's unlawful policies and practices. Both K.K. and B.C. arrived at Virtua Voorhees Hospital to give birth and were given cups to provide urine samples. They provided samples, thinking that the samples would be used to test their protein levels. Those samples, however, were drug tested without their informed consent. Those drug tests came back positive because both women had

eaten poppy seeds before coming to the hospital—a common outcome, as explained by several peer reviewed studies.<sup>3</sup> The consumption of poppy seed-containing food products can regularly generate positive urine drug test results for morphine or codeine.

8. Both K.K. and B.C. consented to drug tests of their newborns, which came back negative, and their babies were healthy. Nonetheless, because of K.K.’s and B.C.’s false positive drug test results, Virtua reported these women—mothers of newborn babies—to DCP&P for possible child abuse less than 24 hours after they had given birth. Both mothers and their families were then subjected to months-long DCP&P investigations for child abuse, which included unannounced home visits and repeated interviews. Both mothers feared that their newborn babies would be taken away from them—all because they had eaten poppy seeds that day and were then subject to Virtua’s universal drug testing policies.

9. Plaintiffs now file this action to remedy and prevent violations of the LAD and NJCRA by Defendants. Plaintiffs seek, among other things, an injunction against Defendants’ unlawful and discriminatory drug testing policy and practices, as well as civil penalties against Defendants and compensatory damages for harms suffered by named and unnamed victims of Defendants’ discriminatory policies and practices.

### **JURISDICTION, VENUE, AND PARTIES**

10. The Attorney General, having offices at 25 Market Street, Trenton, New Jersey, 08625 and 124 Halsey Street, Newark, New Jersey, 07101, is charged with enforcing the LAD.

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<sup>3</sup> See, e.g., Gary M. Reisfield, Scott A. Teitelbaum & Joseph T. Jones, Poppy Seed Consumption May Be Associated with Codeine-Only Urine Drug Test Results, 47 J. Analytical Toxicology 107, 110 (rev. 2023), <https://academic.oup.com/jat/article/47/2/107/6743162?login=false>; Kimberly L. Samano, Randal E. Clouette, Barbara J. Rowland & R.H. Barry Sample, Concentrations of Morphine and Codeine in Paired Oral Fluid and Urine Specimens Following Ingestion of a Poppy Seed Roll and Raw Poppy Seeds, 39 J. Analytical Toxicology 655, 659 (2015), <https://academic.oup.com/jat/article/39/8/655/915592>.

N.J.S.A. 10:5-1 to -50. The Attorney General is authorized to proceed against any person to compel compliance with any provisions of the LAD or to prevent violations or attempts to violate any such provisions and to file a complaint in Superior Court alleging violations of the LAD.

N.J.S.A. 10:5-13. The Attorney General is also authorized to bring a civil action under the New Jersey Civil Rights Act on behalf of any injured party. N.J.S.A. 10:6-2(a).

11. The Director (“Director”) of the New Jersey Division on Civil Rights administers the LAD on behalf of the Attorney General. Under the LAD, DCR is charged with preventing and eliminating discrimination in employment, housing, and access to public accommodations, as well as preventing interference with rights protected under the LAD. N.J.S.A. 10:5-4, 10:5-6, 10:5-12. DCR has offices located at 31 Clinton Street, Newark, New Jersey, 07102; 140 East Front Street, Trenton, New Jersey, 08608; 5 Executive Campus, Cherry Hill, New Jersey, 08002; and 1601 Atlantic Avenue, Atlantic City, New Jersey, 08401. This action is brought by the Director in his official capacity pursuant to N.J.S.A. 10:5-13 and N.J.S.A. 10:5-8.2(b).

12. Defendant Virtua Health, Inc. is a not-for-profit, tax-exempt corporation incorporated in New Jersey. It operates and maintains a health network in Atlantic, Burlington, Camden, Cape May, Mercer, Ocean, and Gloucester Counties in New Jersey, as well as in southeastern Pennsylvania and Delaware.<sup>4</sup> Upon information and belief, Virtua Health Inc.’s New Jersey facilities have approximately 13,000 employees and a staff of more than 2,850 physicians, physician assistants, and nurse practitioners. Virtua Health Inc.’s operations consist of five hospitals, seven emergency departments, seven urgent care centers, and more than 280 locations.

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<sup>4</sup> Virtua Health, Inc., Consolidated Financial Statements, Supplementary Information Report of Independent Certified Public Accountants 12 (Dec. 31, 2023 and 2022), <https://www.virtua.org/-/media/Project/Virtua-Tenant/Virtua/PDFs/Financial-Statements-and-IRS-Forms/Annual-Statements/2023-Virtua-Health-LF-FS---FINAL.pdf>.

Virtua Health Inc.'s hospital group consists of Virtua West Jersey Health System, Inc., Virtua-Memorial Hospital Burlington County, Inc., Virtua Our Lady of Lourdes Hospital Inc., and Virtua Willingboro Hospital, Inc.<sup>5</sup>

13. Defendant Virtua-West Jersey Health System, Inc. is a not-for-profit, tax-exempt corporation that owns and operates a 600-bed licensed health system that includes two general acute care hospitals: Virtua Marlton Hospital and Virtua Voorhees Hospital. Virtua Marlton Hospital is located at 90 Brick Rd, Marlton, New Jersey in Burlington County. Virtua Voorhees Hospital is located at 100 Bowman Drive, Voorhees, New Jersey, in Camden County.

14. Defendant Virtua-Memorial Hospital Burlington County, Inc., is a not-for-profit, tax-exempt corporation that owns and operates a 383-bed licensed acute care hospital, Virtua Mount Holly Hospital, located at 175 Madison Avenue, Mount Holly, New Jersey, in Burlington County.

15. Defendant Virtua Our Lady of Lourdes Hospital, Inc., is a not-for-profit, tax-exempt corporation that owns and operates a 340-bed licensed tertiary acute care hospital. Virtua Our Lady of Lourdes Hospital is located at 1600 Haddon Avenue, Camden, New Jersey, in Camden County.

16. This Complaint refers to Defendants Virtua Health, Inc., Virtua-West Jersey Health System, Inc., Virtua-Memorial Hospital Burlington County, Inc., and Virtua Our Lady of Lourdes Hospital Inc., collectively as "Virtua" or "Defendants."

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<sup>5</sup> Virtua Willingboro Hospital, Inc., owns and operates a 169-bed licensed acute care hospital, Virtua Willingboro Hospital in Willingboro, New Jersey. Upon information and belief, Virtua Willingboro Hospital, does not have a Labor and Delivery or High-Risk Obstetrics Unit.

17. Venue is proper in Camden County pursuant to New Jersey Court Rule 4:3-2 and N.J.S.A. 10:5-8.2(b) because the conduct giving rise to this action occurred in Camden County, New Jersey.

### **FACTUAL ALLEGATIONS**

#### **I. Virtua’s Drug Testing Policies for Pregnant Patients**

##### **A. Virtua’s Policies Subject Pregnant Patients to Universal Drug Testing.**

18. Virtua’s policies governing hospital admissions single out pregnant patients as the sole category of patients at Virtua hospitals who are subject to universal drug testing upon hospital admission for inpatient care. Virtua’s policies require doctors and staff to request that all pregnant patients submit to a drug test upon inpatient admission to the Labor and Delivery Unit or the High-Risk Obstetrics Units. By contrast, Virtua’s policies governing general inpatient hospital admissions do not mandate universal drug testing for any other class of patients.

19. Virtua maintains one set of policies governing general hospital admissions, and a separate set of policies governing hospital admissions for pregnant patients admitted to its Labor and Delivery or High-Risk Obstetrics Units.

20. Virtua’s policy governing general hospital admissions for inpatient care does not specify that hospital doctors or staff must or should order a urine drug test upon inpatient hospital admission.<sup>6</sup>

21. Indeed, Virtua’s policy governing general hospital admissions for inpatient care does not identify any class or category of patients who hospital doctors or staff must order to submit to a urine drug test upon inpatient hospital admission.

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<sup>6</sup> Virtua Health, Inc., Patient Care Manual: “Admission of Patient” Policy 3 (rev. Mar. 2021).



22. Virtua’s “Maternal Care Manual,” however, establishes a different set of policies and protocols for pregnant patients seeking hospital admission for inpatient obstetric care in Virtua’s Labor and Delivery or High-Risk Obstetrics Units.

23. Virtua’s “Maternal Care Manual” applies to facilities operated by Virtua West Jersey Health System, Inc., Virtua Memorial Hospital Burlington County, Inc., and Virtua Our Lady of Lourdes Hospital, Inc.

24. Virtua hospitals with labor and delivery units include Virtua Voorhees Hospital (“Virtua-Voorhees”), Virtua Mount Holly Hospital (“Virtua-Mount Holly”), and Virtua Our Lady of Lourdes Hospital (“Virtua-Lourdes”).<sup>7</sup>

25. Upon information and belief, Virtua-Voorhees is the only Virtua hospital with a high-risk obstetrics unit.

26. Since 2018, Virtua has mandated universal drug testing of all pregnant patients seeking hospital admission to their Labor and Delivery and High-Risk Obstetrics Units.

27. Specifically, the inpatient labor and delivery guidelines in Virtua’s Maternal Care Manual mandate that a “[u]rine drug test shall be obtained on admission to Labor and Delivery or High-Risk Obstetrics for all pregnant patients.”<sup>8</sup>

28. The Manual also occasionally refers to this procedure as a “urine drug screen.” Upon information and belief, a “urine drug screen” is the same procedure as a “urine drug test.” It requires staff to collect a urine sample from the patient and conduct a lab test on that sample.

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<sup>7</sup> Virtua Health, Inc., Your Pregnancy Journey: Guide to Delivering Your Baby at Virtua Health 2, [https://www.virtua.org/-/media/Project/Virtua-Tenant/Virtua/PDFs/Pregnancy-Care/OB\\_Your-Guide-to-Delivering\\_Book\\_2024-v2.pdf](https://www.virtua.org/-/media/Project/Virtua-Tenant/Virtua/PDFs/Pregnancy-Care/OB_Your-Guide-to-Delivering_Book_2024-v2.pdf).

<sup>8</sup> Virtua Health, Inc., Maternal Care Manual: “Substance Use in Pregnancy, Suspected” Policy 3 (rev. Oct. 2022).

29. Upon information and belief, Virtua’s universal drug screening policy has been applied across all of its hospitals with Labor and Delivery and High-Risk Obstetrics Units.

**B. Virtua’s Universal Drug Testing Policy for Pregnant Patients Seeking Inpatient Care Conflicts with Accepted Standards of Medical Care.**

30. In support of its protocols requiring a universal drug test of all pregnant patients seeking inpatient hospital admission, Virtua’s Maternal Care Manual references published policy statements and opinions issued by the American College of Obstetricians and Gynecologists (“ACOG”) and the American Society on Addiction Medicine (“ASAM”).<sup>9</sup>

31. Neither ACOG nor ASAM, however, recommend universal drug testing of all pregnant patients upon inpatient hospital admission.

32. Instead, both professional organizations recommend a very different practice: asking the patient a set of behavioral health questions regarding the patient’s history and exposure to drugs. This recommended practice is commonly known as “drug screening.” Drug screening is a validated tool used by health care providers to assess a patient’s risk for substance abuse. Drug screening does not involve a “urine drug test” or other form of drug testing of pregnant patients.

33. Both ASAM and ACOG endorse the use of verbal drug screening over universal drug testing of pregnant patients in labor and delivery.<sup>10</sup> ASAM and ACOG advise that medical providers rely on validated screening tools, such as the “4Ps” (Pregnancy, Past, Partner, and

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<sup>9</sup> Id. at 5.

<sup>10</sup> The American College of Obstetricians and Gynecologists (“ACOG”) & American Society of Addiction Medicine (“ASAM”), ACOG Committee Opinion No. 711: Opioid Use and Opioid Use Disorder in Pregnancy 6 (Aug. 2017), <https://www.acog.org/-/media/project/acog/acogorg/clinical/files/committee-opinion/articles/2017/08/opioid-use-and-opioid-use-disorder-in-pregnancy.pdf> [hereinafter ACOG Opinion].

Parental) questionnaire or the “NIDA” (National Institute on Drug Abuse Quick Screen) questionnaire.<sup>11</sup>

34. The World Health Organization (“WHO”) likewise recognizes that self-report verbal screening for substance use and substance use disorders during pregnancy has been proven accurate and “may be a better indicator of use” than urine drug testing.<sup>12</sup> In its resources for medical providers, the Centers for Disease Control and Prevention (“CDC”) references ACOG’s and ASAM’s joint opinion on opioid use and opioid use disorder in pregnancy, which favors drug screening over universal drug testing.<sup>13</sup> And peer-reviewed research likewise recommends verbal screening instead of universal drug testing.<sup>14</sup>

35. Professional and medical organizations support drug screening instead of universal drug testing because urine drug testing generally does not and cannot distinguish between a positive result derived from the presence of an unauthorized substance and one derived from the presence of authorized substances, such as prescribed pain killers, other prescribed drug treatment,

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<sup>11</sup> Id. at 5.

<sup>12</sup> World Health Organization, Guidelines for the Identification and Management of Substance Use and Substance Use Disorders in Pregnancy 25 (2014), [https://iris.who.int/bitstream/handle/10665/107130/9789241548731\\_eng.pdf](https://iris.who.int/bitstream/handle/10665/107130/9789241548731_eng.pdf).

<sup>13</sup> Center for Disease Control, Substance Use During Pregnancy, <https://www.cdc.gov/maternal-infant-health/pregnancy-substance-abuse/index.html> (last visited Sept. 3, 2024).

<sup>14</sup> See Theresa Kurtz & Marcela C. Smid, Questioning Clinical Practice: Challenges in Perinatal Drug Testing, 140 *Obstetrics & Gynecology* 163 (2022), [https://www.nnepqin.org/wp-content/uploads/2023/04/Challenges\\_in\\_Perinatal\\_Drug\\_Testing.6.pdf](https://www.nnepqin.org/wp-content/uploads/2023/04/Challenges_in_Perinatal_Drug_Testing.6.pdf).

over-the-counter medications, or foods like poppy seed bagels.<sup>15</sup> Accordingly, clinical drug testing results are not independently reliable or concrete proof of illegal drug use.<sup>16</sup>

36. Notwithstanding the strong support in the medical community for the use of drug screening instead of universal drug testing, Virtua's Maternal Care Manual currently mandates universal drug testing, not verbal drug screening, to assess the risk of substance abuse in pregnant patients seeking admission to Virtua's Labor and Delivery and High-Risk Obstetrics Units.

37. Virtua's current policy requiring universal drug testing of all admitted pregnant patients marks a departure from its prior approach to drug testing of pregnant patients.

38. Upon information and belief, prior to 2018, Virtua did not conduct universal drug testing of all pregnant patients seeking inpatient hospital admission. Instead, it would verbally screen patients and would decide to administer a urine drug test based on a patient's risk of drug use.

39. As explained in Virtua's Position Statement submitted during DCR's investigation, Virtua-Voorhees maintains that it began requiring universal drug testing of all pregnant patients seeking inpatient hospital admission in 2018 because of the rapid increase in opioid usage in the United States, commonly referred to as the "opioid epidemic."<sup>17</sup>

40. Virtua-Voorhees maintains that it changed its policy in 2018 to address an increase in infants exhibiting symptoms of neonatal abstinence syndrome ("NAS") due to the opioid

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<sup>15</sup> See ACOG Opinion at 4-5.

<sup>16</sup> Ibid.

<sup>17</sup> Letter from Virtua-West Jersey Health System, Inc. to the New Jersey Division on Civil Rights regarding B.C.'s complaint (June 23, 2023); Letter from Virtua-West Jersey Health System, Inc. to the New Jersey Division on Civil Rights regarding K.K.'s complaint (May 3, 2023).

epidemic. According to Virtua-Voorhees, this resulted in an “increase in the number of babies that had to be readmitted to the hospital due to withdrawal symptoms after being discharged, as well as an increase in the number of babies that had delayed admissions to the neonatal intensive care unit (“NICU”) for treatment of withdrawal symptoms.”<sup>18</sup>

41. The risk of NAS, however, can be assessed in ways other than drug testing the birthing parent. Other ways of detecting NAS include using validated screening tools like the 4Ps or NIDA questionnaire,<sup>19</sup> or observing an infant for signs of physical withdrawal, which are often exhibited within the first 24 to 72 hours after birth.

42. Virtua’s universal drug testing policy for inpatient pregnancy care also stands in contrast to Virtua’s own current policies governing prenatal care for pregnant patients.

43. Virtua itself acknowledges that verbal “drug screening”—that is, having a patient verbally respond to behavioral health questions—is an effective tool for evaluating drug use in pregnant patients. Indeed, Virtua’s Maternal Care Manual recognizes that “[s]creening for substance use in pregnancy should be part of comprehensive obstetric care and should be done at the first prenatal visit and ongoing throughout the pregnancy.”<sup>20</sup>

44. The Maternal Care Manual requires that, during outpatient prenatal appointments at Virtua’s obstetric offices, pregnant patients have a verbal assessment “performed as part of their initial prenatal visit and again during the 3rd trimester.”<sup>21</sup>

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<sup>18</sup> Ibid.

<sup>19</sup> See supra ¶ 33.

<sup>20</sup> Virtua Health, Inc., Maternal Care Manual: “Substance Use in Pregnancy, Suspected” Policy 1 (rev. Oct. 2022).

<sup>21</sup> Id. at 2-3.

45. The Maternal Care Manual recommends that its doctors and staff use a specific screening tool for these outpatient prenatal appointments—namely, the “Perinatal Risk Assessment”<sup>22</sup> developed “through the Southern New Jersey Perinatal Cooperative.”<sup>23</sup>

46. Nonetheless, when it comes to the inpatient admission of pregnant patients at its hospitals, Virtua deviates from that approach and mandates universal drug testing.

**C. Virtua’s Universal Drug Testing Policies Result in the Over-Reporting of Pregnant Patients for Suspected Child Abuse or Neglect.**

47. All Virtua staff are required to report pregnant patients to the Division of Child Protection and Permanency (“DCP&P”) for suspected child abuse or neglect based on any positive drug test, no matter the reason for the positive test.

48. Virtua’s universal testing practices apply only to pregnant patients and subject them and their families to a government investigation for suspected child abuse or neglect—even when they test positive for reasons having nothing to do with substance abuse.

49. Virtua’s Maternal Care Manual provides that “[s]ocial services must be consulted . . . for any family whose mother or infant had a positive drug screen at any time during this pregnancy for any substance.”<sup>24</sup>

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<sup>22</sup> A Perinatal Risk Assessment entails completion of a form that is designed to “promote early and accurate identification of prenatal risk factors, and to reduce administrative burden on busy obstetric practices.” Family Health Initiatives, Training Manual: New Jersey Perinatal Risk Assessment Form 4 (rev. Jan. 26, 2012), [https://praspect.org/documentation/PRA\\_Training\\_Manual\\_Jan2012.pdf](https://praspect.org/documentation/PRA_Training_Manual_Jan2012.pdf).

<sup>23</sup> Virtua Health, Inc., Maternal Care Manual: “Substance Use in Pregnancy, Suspected” Policy 2-3 (rev. Oct. 2022).

<sup>24</sup> Id. at 4.

50. Virtua also maintains a separate Case Management policy entitled “Abuse/Neglect Child,” which applies to Virtua West Jersey Health System, Inc., Virtua-Memorial Hospital Burlington County, Inc., Virtua Our Lady of Lourdes Hospital Inc., and Virtua Willingboro Hospital, Inc. This policy requires hospital staff “to report any cases involving suspected abuse or neglect to DCP&P.”<sup>25</sup>

51. The “Abuse/Neglect Child” policy states that current law “require[s] Virtua to report any substance affected infant during pregnancy regardless of the reasons for which infants may experience substance exposure.”<sup>26</sup> The policy mandates that “ANY substance affected infants must be reported”<sup>27</sup> when the possible exposure is detected—either during pregnancy or at birth.

52. The “Abuse/Neglect Child” policy defines a “substance-affected infant” in accordance with N.J.A.C. 3A:26-1.2 and include any of the following:

1. An infant whose mother had a positive toxicology screen for a controlled substance during pregnancy or at the time of delivery
2. An infant who has a positive toxicology screen for a controlled substance after birth which is reasonably attributed to maternal controlled substance use during pregnancy
3. An infant who displays the effects of prenatal controlled substance exposure or symptoms of withdrawal resulting from prenatal controlled substance exposure
4. An infant who displays the effects of a fetal alcohol spectrum disorder (FASD) at birth.<sup>28</sup>

53. Thus, under Virtua’s policies, any pregnant “mother” who has a “positive toxicology screen for a controlled substance” upon admission to labor and delivery will be reported

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<sup>25</sup> Virtua Health, Inc., Case Management Manual: “Abuse/Neglect Child” Policy 1 (rev. Oct. 2018).

<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

<sup>28</sup> Ibid.

to DCP&P as a case of “suspected abuse or neglect.”<sup>29</sup> That is true, according to the policy, “regardless of the reasons for which infants may experience substance exposure.”<sup>30</sup>

54. Even small amounts of a detected substance that result from the ingestion of authorized substances—such as medically-authorized prescription drugs, over-the-counter medications, or even food—can be sufficient to trigger reporting to DCP&P.

55. Neither federal nor state law specifies what concentration of a substance must be present in order to deem an infant “substance affected” or to deem a test result a “positive toxicology screen” for purposes of triggering child welfare agency reporting requirements, including those to DCP&P.

56. Upon information and belief, the urine samples obtained from pregnant patients who initially test positive on a urine drug test at Virtua are transmitted to Atlantic Diagnostic Laboratories (“ADL”) for a confirmatory test. ADL can detect the presence of morphine or codeine at levels as low as 10 ng/mL—meaning that any test result at or above 10 ng/mL for morphine or codeine will result in a positive test, and any result below it will result in a negative test.<sup>31</sup>

57. Given the sensitivity of the confirmatory test used by ADL, even small amounts of morphine or codeine found in the testing sample can generate a positive test result.

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<sup>29</sup> Ibid.

<sup>30</sup> Ibid.

<sup>31</sup> Atlantic Diagnostic Laboratories, Urine Drug Confirmation Results for Patient B.C. (Dec. 22, 2022); Atlantic Diagnostic Laboratories, Urine Drug Confirmation Results for Patient K.K. (Oct. 21, 2022).



58. Peer-reviewed studies have demonstrated, for example, that consumption of poppy seed-containing food products, including poppy seed bagels, can regularly generate urine drug test results for codeine that exceed 300 ng/mL.<sup>32</sup>

59. This means that the 10 ng/mL threshold value for determining what constitutes a positive confirmatory test does not and cannot distinguish between the consumption of authorized and unauthorized substances. As a result, pregnant patients will be reported to DCP&P even when their positive test result stems from the consumption of authorized or lawful substances like poppy seeds.

60. Once a urine drug test generates a positive confirmatory test result, Virtua must refer the matter to DCP&P for investigation as a possible case of suspected child abuse or neglect.

61. According to DCP&P estimates based on data self-reported by hospitals, Virtua-Voorhees, Virtua-Mount Holly, and Virtua-Lourdes account for a disproportionate share of all statewide referrals to DCP&P concerning substance-affected infants, as defined by N.J.A.C. 3A:26-1.2.<sup>33</sup>

62. Though these facilities represent just three of the 46 hospitals in New Jersey that reported referrals to DCP&P concerning substance-affected infants, they accounted for over one-fifth of all such referrals in the State in 2021, 2022, and 2023.<sup>34</sup>

63. In 2021, DCP&P estimates that Virtua-Voorhees, Virtua-Mount Holly, and Virtua-Lourdes collectively accounted for 21.2% of the reports DCP&P received of substance-affected

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<sup>32</sup> Reisfield, 47 *J. Analytical Toxicology* at 110; Samano, 39 *J. Analytical Toxicology* at 658.

<sup>33</sup> See ¶ 52, *supra* and ¶ 158, *infra*.

<sup>34</sup> Division of Child Protection & Permanency, Substance Affected Newborn Reports by Hospital Name, 2021-2023.

newborns from self-reporting hospitals statewide.<sup>35</sup> According to Department of Health data, these three hospitals collectively accounted for only 9.5% of all hospitalizations for deliveries statewide in 2021.<sup>36</sup>

64. In 2022, DCP&P estimates that Virtua-Voorhees, Virtua-Mount Holly, and Virtua-Lourdes collectively accounted for 24.2% of the reports DCP&P received of substance-affected newborns from self-reporting hospitals statewide.<sup>37</sup> According to Department of Health data, these three hospitals accounted for only 9.4% of all hospitalizations for deliveries statewide in 2022.<sup>38</sup>

65. In 2023, Virtua-Voorhees, Virtua-Mount Holly, and Virtua-Lourdes accounted for 23% of DCP&P substance-affected infant reports from hospitals statewide.<sup>39</sup> The New Jersey Department of Health data concerning statewide hospitalizations for deliveries in 2023 has not yet been made publicly available, but if previous trends remain consistent, the three Virtua hospitals would collectively account for less than 10% of all hospitalizations for deliveries statewide.

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<sup>35</sup> Division of Child Protection & Permanency, Substance Affected Newborn Reporting by Year, Virtua Hospitals Compared to Other Hospitals, 2021-2023.

<sup>36</sup> New Jersey Department of Health, New Jersey Hospital Maternity Care Report Card, 2021 & 2022 13 (Jan. 2024), [https://www.nj.gov/health/maternal/documents/hospital\\_report\\_card\\_methodology\\_2021\\_2022.pdf](https://www.nj.gov/health/maternal/documents/hospital_report_card_methodology_2021_2022.pdf); New Jersey Department of Health, New Jersey Maternal Data Center, [https://www.nj.gov/health/maternal/morbidity/mhh\\_reportcard/reportcard\\_new/index.shtml](https://www.nj.gov/health/maternal/morbidity/mhh_reportcard/reportcard_new/index.shtml) (last visited Sept. 24, 2024).

<sup>37</sup> Division of Child Protection & Permanency, Substance Affected Newborn Reporting by Year, Virtua Hospitals Compared to Other Hospitals, 2021-2023.

<sup>38</sup> New Jersey Department of Health, New Jersey Hospital Maternity Care Report Card, 2021 & 2022 13 (Jan. 2024), [https://www.nj.gov/health/maternal/documents/hospital\\_report\\_card\\_methodology\\_2021\\_2022.pdf](https://www.nj.gov/health/maternal/documents/hospital_report_card_methodology_2021_2022.pdf); New Jersey Department of Health, New Jersey Maternal Data Center, [https://www.nj.gov/health/maternal/morbidity/mhh\\_reportcard/reportcard\\_new/index.shtml](https://www.nj.gov/health/maternal/morbidity/mhh_reportcard/reportcard_new/index.shtml) (last visited Sept. 24, 2024).

<sup>39</sup> Division of Child Protection & Permanency, Substance Affected Newborn Reporting by Year, Virtua Hospitals Compared to Other Hospitals, 2021-2023.

66. Upon information and belief, Virtua-Voorhees, Virtua-Mount Holly, and Virtua-Lourdes account for a disproportionate share of all statewide referrals to DCP&P concerning substance-affected infants because of Virtua's mandatory drug-testing policy, which results in pregnant patients who have no history of drug use receiving false positive drug test results that, in turn, trigger automatic referrals to DCP&P.

67. After receiving a referral, DCP&P is required by law to investigate and determine if the child has been subject to abuse or neglect pursuant to N.J.S.A. 9:6-1, et seq. N.J.A.C. 3A:26-1.1(c).

68. Upon information and belief, DCP&P's investigation may unfold over the course of many months and may involve multiple interviews of the pregnant person or birthing parent, the pregnant person or birthing parent's other minor children, other family members, and other witnesses.

69. DCP&P's investigation may also involve visits to the hospital and home of the pregnant patient or birthing parent both before and after the newborn arrives home from the hospital, and may result in the newborn and the birthing parent's discharge from the hospital being delayed while DCP&P commences its investigation.

**D. Virtua's Universal Drug Testing Policies Require A Pregnant Patient's Informed Consent, But Do Not Specify How Providers Should Obtain Informed Consent.**

70. Under New Jersey law, medical providers must obtain informed consent before administering a drug test. Informed consent requires medical providers to disclose sufficient information to enable a patient to evaluate all available options. Informed consent requires that the hospital or medical provider make the patient aware of any information a reasonably prudent patient would find significant to make an informed decision regarding a course of treatment, procedure, or test—not what a physician might find pertinent or relevant to a given medical

decision. Largey v. Rothman, 110 N.J. 204, 211-212 (1988); Matthies v. Mastromonaco, 160 N.J. 26, 34-36 (1999) (doctrine of informed consent applies to noninvasive treatments).

71. Every person admitted to a hospital licensed by the New Jersey State Department of Health has the right “[t]o receive from the physician information necessary to give informed consent prior to the start of any procedure or treatment.” N.J.S.A. 26:2H-12.8(d).

72. Pursuant to state regulation, each hospital must develop policies and procedures for “obtaining the patient’s written informed consent for all medical treatment.” N.J.A.C. 8:43G-5.2(a)(2).

73. Virtua’s Maternal Care Manual provides that hospital staff must obtain informed consent from the pregnant patient prior to administering a urine drug test. It does not specify whether that informed consent should be written or verbal.

74. The Maternal Care Manual specifies that the patient’s “[c]onsent shall be documented in [the] progress notes [within] the Electronic Medical Record by the obstetrician.”<sup>40</sup>

75. If a pregnant patient does not consent to be tested, the patient “is to be informed that a urine and meconium<sup>41</sup> drug screen will be obtained on [the] newborn. This must also be documented by the obstetrician in the [patient’s] Electronic Medical Record.”<sup>42</sup>

76. The Maternal Care Manual provides that the obstetrician must document that such drug testing on the newborn and the reasons for it “were explained to the mother and that consent

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<sup>40</sup> Virtua Health, Inc., Maternal Care Manual: “Substance Use in Pregnancy, Suspected” Policy 3 (rev. Oct. 2022).

<sup>41</sup> The first stool from a newborn infant.

<sup>42</sup> Virtua Health, Inc., Maternal Care Manual: “Substance Use in Pregnancy, Suspected” Policy 3 (rev. Oct. 2022).

was obtained or refused.”<sup>43</sup> The Manual also states that obtaining maternal consent for testing of the newborn is “not required.”<sup>44</sup>

77. Virtua’s Maternal Care Manual also does not specify what information medical providers must share with the pregnant patient to obtain informed consent for a urine drug test.

78. ACOG recommends that “[b]efore performing any test on the pregnant individual or neonate, including screening for the presence of illicit substances, informed consent should be obtained from the pregnant person or parent. This consent should include the medical indication for the test, information regarding the right to refusal and the . . . possible outcome of positive test results,” including any state-mandated reporting requirements.<sup>45</sup>

79. Virtua’s Maternal Care Manual, however, does not specify that medical providers or hospital staff must inform pregnant patients of the medical reason for conducting a urine drug test on the pregnant patient.

80. Virtua’s Maternal Care Manual also does not specify that medical providers or hospital staff must inform pregnant patients of their right to refuse the urine drug test.

81. Virtua’s Maternal Care Manual also does not specify that medical providers or hospital staff must inform pregnant patients of the possible consequences of a positive result on a drug test, such as reporting to DCP&P for an investigation of suspected child abuse or neglect.

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<sup>43</sup> Id. at 2.

<sup>44</sup> Ibid.

<sup>45</sup> American College of Obstetricians & Gynecologists, Opposition to Criminalization of Individuals During Pregnant and the Postpartum Period: Statement of Policy (amended & reaffirmed July 2024), <https://www.acog.org/clinical-information/policy-and-position-statements/statements-of-policy/2020/opposition-criminalization-of-individuals-pregnancy-and-postpartum-period>.

**II. Virtua’s Universal Drug Testing and Informed Consent Policies and Practices Have Violated Patient Privacy Rights and Triggered Child Abuse or Neglect Investigations of Women with No History of Substance Abuse.**

82. Upon information and belief, Virtua’s policies and practices have resulted in numerous pregnant patients, including K.K. and B.C., being subjected to urine drug tests without informed consent upon their admission to Virtua’s Labor and Delivery and High-Risk Obstetrics Units to give birth.

83. K.K. and B.C. both tested positive for drugs—but neither used illegal substances. Instead, K.K. and B.C. consumed bagels containing poppy seeds shortly before taking a drug test. But because of Virtua’s policies and practices regarding the universal drug testing of pregnant patients seeking inpatient care, both were the target of DCP&P investigations for suspected child abuse or neglect.

**A. Patient K.K.**

***1. Virtua-Voorhees Conducts a Urine Drug Test Without K.K.’s Informed Consent.***

84. Around 9:30 AM on the morning of October 20, 2022, K.K. arrived at Virtua-Voorhees to give birth to her second child. K.K., who was pregnant and at the end of her third trimester, went to the hospital because she believed that her water had broken.

85. When she arrived and checked in, she was given a cup to provide a urine sample. No one from Virtua told her what the purpose of the sample was. K.K. was accustomed to providing urine samples during her prenatal care appointments to test for protein levels to rule out preeclampsia. K.K. therefore assumed this sample was either another check for proteins, or that the hospital wanted to analyze the fluid from her water breaking.

86. Marianne Woodside, a Registered Nurse, collected the urine sample. K.K.'s medical records indicate "UDS," which is on information and belief an abbreviation for "urine drug screen."

87. K.K.'s medical records also indicate "verbal consent obtained" at 10:07 AM.

88. K.K., however, is certain that no one obtained her consent for a urine drug test. Nor did anyone explain the purpose or consequence of a positive urine drug test. K.K. also was not provided a written consent form for the urine drug test.

89. K.K. went to the hospital with a friend, who was present during the check-in. K.K.'s friend also does not recall anyone mentioning a drug test.

**2. *K.K. Tests Positive for Opiates, and Virtua-Voorhees Reports Her to DCP&P.***

90. Later that day, while she was awaiting medication that would induce labor, she received an alert on her phone indicating that she had new test results on MyChart, the hospital's online patient portal. When she opened the alert, she saw that she had tested positive for opiates. K.K. was confused because this was the first time she realized she had been tested for drugs.

91. K.K. assumed there had been a mistake, as no one from the hospital had mentioned a drug test. No one from Virtua brought up the results with her that day. No hospital staff asked her questions about substance use or conducted a drug screening questionnaire.

92. K.K. was given medication to induce labor, and gave birth a few hours later to a healthy baby boy.

93. K.K.'s son showed no signs of having been exposed to illicit substances during pregnancy or delivery. K.K.'s son showed no signs of neonatal opioid withdrawal syndrome, neonatal abstinence syndrome, or any other concerning symptoms.

94. The next day, on October 21, 2022, a nurse came into K.K.'s room and brought up the positive urine drug test, but told K.K. not to worry.

95. K.K. remained confused about how she had tested positive for opioids. She remembered that, before going to the hospital the prior morning, she had eaten an everything bagel that contained poppy seeds. She told the nurse that she had eaten a bagel with poppy seeds, in case it was possible that the bagel could have caused the positive result.

96. The nurse told K.K. the hospital would send out her sample for confirmatory testing, and that they would also take urine and meconium samples from her newborn son, to which K.K. consented.

97. Later that day, a hospital administrator came into K.K.'s room and explained that the hospital would call DCP&P to report K.K. for possible child abuse if the second drug test came back positive.

98. This was the first time anyone had mentioned DCP&P's involvement. This news worried K.K. At the time, however, she was certain the second test would come back negative.

99. The following morning, on October 22, 2022, the confirmatory drug test results came back positive for opiates. The report indicated a codeine value of 18.4 ng/mL, with a cutoff value of 10 ng/mL delineating the line between a positive and negative test result.<sup>46</sup>

100. K.K.'s son's urine and meconium drug screens came back negative, and K.K. began breastfeeding.

101. K.K. was shocked this was happening. She did not understand how she could have tested positive for codeine. She thought perhaps her sample had been swapped.

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<sup>46</sup> Atlantic Diagnostic Laboratories, Urine Drug Confirmation Results for Patient K.K. (Oct. 21, 2022).



102. K.K.'s first child was delivered at a different hospital, and no one conducted a urine drug test at that time.

103. The hospital's outcomes manager called DCP&P to report the results of K.K.'s confirmatory screen.

104. A nurse told K.K. that her test results did not align with consumption of an everything bagel. Studies show, however, that the consumption of poppy seeds can result in codeine values in excess of 300 ng/mL—far higher than the 18.4 ng/mL result K.K. received.<sup>47</sup>

### ***3. DCP&P Investigates K.K. for Child Abuse or Neglect.***

105. K.K. was told that while she was ready for discharge, she had to wait for clearance from DCP&P before she could leave.

106. K.K. was extremely anxious while waiting for DCP&P.

107. When DCP&P finally arrived, the caseworkers interviewed K.K. as well as K.K.'s sister-in-law, who had been with her for the birth, asking them questions about K.K.'s drug use.

108. While K.K. was still being interviewed in the hospital, different DCP&P caseworkers arrived at K.K.'s house, where a friend was watching K.K.'s then-seven-year-old son. K.K.'s friend called her to let her know DCP&P was at the home and planning to interview her son.

109. The caseworkers conducted a walk-through of K.K.'s home and spoke to her son in his room. K.K. felt awful that she could not be there for her other son while DCP&P questioned him. K.K.'s son later told her that DCP&P asked him several questions, including whether he felt safe in his home.

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<sup>47</sup> See Section I.B, *supra*.

110. After the walkthrough of K.K.'s home was complete, DCP&P told K.K. that she could leave the hospital, and that the person assigned to her case would be in touch.

111. Approximately two days after leaving the hospital, right as K.K. was about to leave the house with her newborn son, the caseworker assigned by DCP&P called K.K. to tell her that she was outside K.K.'s house. The caseworker again walked through K.K.'s home for about a half hour, checking all cabinets and ensuring there was running water and food in the home.

112. The caseworker gave K.K. parenting literature to read, which K.K. found insulting. K.K. had successfully been parenting a healthy child for seven years.

113. The caseworker also asked K.K. questions about the fathers of both her sons. K.K. found these questions to be intrusive and triggering. K.K. divorced the father of her first son because he used drugs, and she had only occasional contact with him. The newborn's father and K.K. separated after three months, and he was not involved in her life.

114. K.K.'s oldest son was at school during the visit, but the caseworker said she would need to return when K.K.'s oldest son came back to interview him again. The caseworker also asked for the son's report cards and wellness records.

115. The DCP&P caseworker also asked K.K. if she was willing to provide a hair follicle for an additional drug test, to which K.K. agreed.

116. About one month later, the father of K.K.'s older son called to let her know DCP&P had interviewed him. DCP&P asked him whether K.K. exhibited any questionable behavior or used illicit substances.

117. After waiting anxiously for DCP&P to follow up, K.K. reached out to DCP&P for an update. DCP&P conducted another home visit, and in December, K.K.'s hair follicle test came

back negative for all substances. Once the hair follicle test was negative, DCP&P conducted one final walk-through and interviewed with her son.

**4. DCP&P Closes Its Investigation Without Any Findings of Wrongdoing.**

118. In December 2022, approximately two months after giving birth at Virtua and being reported to DCP&P, K.K. received a letter from DCP&P stating that they had determined the allegations of abuse to be “unfounded” and terminated the investigation.

119. K.K. remains concerned about the consequences of the positive drug test and the DCP&P investigation.

120. K.K. worries that the positive drug test and DCP&P investigation could negatively affect future custody disputes involving both her sons.

121. K.K. also worries that the positive drug test will remain in her medical record, causing future doctors to judge or mistrust her.

122. The experience also tempered what was otherwise supposed to be a joyous occasion for K.K. and her family.

**B. Patient B.C.**

**1. Virtua-Voorhees Conducts a Urine Drug Test Without B.C.’s Informed Consent.**

123. Around 8:15 AM on the morning of December 22, 2022, B.C. arrived at Virtua-Voorhees for a scheduled induction of labor for her first child. She was subsequently transferred to a room in the High-Risk Obstetrics Unit.

124. Upon entering the room with her husband, B.C. noticed a urine cup and proceeded to provide a urine sample. B.C. had given numerous urine samples during her prenatal care to assess for protein levels, among other things, and she assumed the purpose of the urine test was the same in this instance.

125. Jennifer Hale, a Certified Nurse Midwife, collected the urine sample without explaining to B.C. what it was for. B.C.'s medical records indicate a "urine drug screen," and that "verbal consent [was] obtained" at 9:41 AM. But B.C. is certain that no one obtained her consent for a urine drug test, nor did anyone explain the purpose or consequence of a positive urine drug test. And B.C.'s husband, who was with her at the hospital does not remember anyone asking for consent for the urine drug test. B.C. had signed several insurance forms when she checked in, but she was not provided a consent form for a urine drug test.

126. While waiting for labor to be induced, B.C. was alert and remembered hospital staff asking her questions about what she ate and how she was feeling. No one asked her about substance use or conducted any kind of verbal drug screening.

**2. *B.C. Tests Positive for Opiates, and Virtua-Voorhees Reports Her to DCP&P.***

127. Before noon and prior to labor, a nurse and a trainee informed B.C. that her urine drug test was positive for opiates based on a cutoff range of 300 ng/mL.

128. B.C., who is an emergency room nurse by profession, was surprised and first thought that her urine sample had been mislabeled, especially because she was completely unaware that a urine drug screen had been performed. B.C. then considered the possibility that Unisom, an over-the-counter antihistamine that she takes for sleep, or the fact that she had two poppy seed bagels that morning, could have caused false positive results.

129. B.C. was terrified because she knew what the medical staff must be assuming about her. She was already in pain from gallbladder issues, and the positive urine drug test only added to her anxiety. One of the nurses assured her not to worry because nothing would happen. The nurse stated that she believed B.C. and that the positive results were caused by some harmless substance, not by illicit drugs.

130. Later that same day, a hospital case manager or social worker spoke to B.C. as she was starting contractions, but before an epidural had been administered. They told B.C. that they believed her regarding the false positive results, but that another social worker would come talk to her. B.C. asked repeatedly for them to re-do the urine drug test or take a hair follicle sample, but they denied her request. Medical staff asked B.C. if they could take a meconium sample from her baby once he was born, to which B.C. consented.

131. The following morning, on December 23, before B.C. gave birth, a nurse noted in B.C.'s medical file that she was "extremely anxious with physiological [symptoms]," though B.C. declined anti-anxiety medications.

132. Later that evening, about 36 hours after B.C. was admitted to the hospital, she gave birth to a healthy baby boy around 7:32 PM.

133. She was transferred to the Mother-Baby Unit, and a staff member informed her that a confirmatory urine drug test had been performed.

134. The staff member indicated that B.C. had tested positive with a testing value of 145 ng/mL of codeine, with a cutoff value of 10 ng/mL delineating the line between a positive and negative test.<sup>48</sup> B.C.'s understanding was that the same urine sample she had provided the day before was sent to a third-party laboratory to confirm the initial results.

135. On the morning of December 24, 2022, hospital staff informed B.C. that her baby's meconium had tested negative for any illicit substances. Her newborn had also not exhibited any concerning symptoms, and B.C. was able to breastfeed that day.

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<sup>48</sup> Atlantic Diagnostic Laboratories, Urine Drug Confirmation Results for Patient B.C. (Dec. 22, 2022).

136. That same day, a new social worker or outcomes manager met with B.C. and her husband and told them the hospital was required to notify DCP&P of the positive urine drug test. The hospital worker made the process sound informal and did not mention that DCP&P would visit B.C.'s home.

**3. *DCP&P Investigates B.C. for Child Abuse or Neglect.***

137. The next day was Christmas, and B.C. was expecting to be discharged home that morning. But B.C. was not permitted to leave the hospital until she had met with DCP&P, a process that took several hours.

138. Two DCP&P caseworkers spoke to B.C. and her husband, asking about their drug use, alcohol consumption, and whether the home was equipped with food, heat, and water, among other things.

139. B.C. had been expecting the birth of her son to be a joyous occasion, especially during the holidays. Instead, B.C. was overwhelmed with anxiety and feared that DCP&P's investigation might result in her newborn son being taken away from her.

140. After B.C. was discharged later that day, she arrived at her home, where two different DCP&P caseworkers were waiting for her. B.C. immediately feared that they would take her son away. The DCP&P caseworkers inspected the house, checking whether it was properly equipped and safe for a newborn. B.C. also showed them her medicine cabinet and the bag of poppy seed bagels. The DCP&P caseworkers did not interview anyone else, but informed B.C. that a different caseworker would contact her about an interview within 48 hours.

141. A few days later, another DCP&P caseworker was assigned to her case and interviewed B.C. for about two hours. The caseworker asked B.C. personal questions on a range of topics, including about drug and alcohol use, whether she had ever hurt herself, her relationship

with her stepson, and her relationship with her husband. The caseworkers also spoke separately to B.C.'s husband.

142. During that interview, B.C. consented to a repeat urine drug test.

143. B.C.'s repeat urine drug test results were normal.

144. About one month later, DCP&P contacted B.C. and told her they had to interview her 15-year-old stepson. B.C. believes the caseworker spoke to her stepson.

145. The caseworker also wanted a release form to speak to B.C.'s obstetrician-gynecologist to determine whether B.C. taking Zoloft was affecting her breastfeeding. B.C. believes that she signed the release, but that her obstetrician-gynecologist did not provide DCP&P with the information they were seeking.

146. Additionally, the DCP&P caseworker checked with local police to see if there were any reports of domestic disputes.

147. Because B.C. resides in a small town, one of B.C.'s friends learned that DCP&P spoke to the police, which caused B.C. additional embarrassment and anxiety.

#### ***4. DCP&P Closes Its Investigation Without Findings of Wrongdoing.***

148. About two months after the birth of her son, DCP&P sent B.C. a letter stating that their investigation determined that the allegation of neglect was unfounded, and closed the case.

149. Even after closing her case, DCP&P continued to contact B.C. about her Zoloft use and the release form. B.C. did not sign another release, and DCP&P appeared to drop their inquiry.

150. B.C. continues to worry about the consequences of DCP&P's investigation and the positive result of her urine drug test.

151. As a nurse, she is concerned that the DCP&P investigation and the underlying positive drug test result may jeopardize her license or ability to obtain a job.

152. The ordeal also marred what was otherwise supposed to be a joyous occasion as B.C. and her family celebrated the birth of her first child.

153. The positive drug test and the DCP&P investigation continue to inflict psychological trauma and emotional distress on B.C.

### **III. Virtua's Policies and Practices Are Not Compelled by Federal or State Law.**

154. Neither federal law nor state law requires Virtua to conduct universal drug testing of pregnant patients seeking inpatient hospital admission.

155. Neither federal nor state law requires Virtua to engage in a practice of drug testing pregnant patients without first obtaining their informed consent.

156. The Federal Child Abuse Prevention and Treatment Act (“CAPTA”), 42 U.S.C.A. § 5101, et seq., expressly declines to establish a federal definition of what constitutes child abuse or neglect, and it does not establish any requirement for hospitals or other medical care facilities to conduct urine drug tests on pregnant patients.

157. Instead, CAPTA requires states to implement appropriate child protective referral, notification, and prosecutorial systems, along with care, treatment, and monitoring programs, “to address the needs of infants born with and identified as being affected by substance abuse or withdrawal symptoms resulting from prenatal drug exposure, or a Fetal Alcohol Spectrum Disorder, including a requirement that health care providers . . . notify the child protective services.” 42 U.S.C.A. § 5106a(b)(2)(B)(ii), (iii).

158. CAPTA does not define “affected by substance abuse.” Ibid.

159. CAPTA does not mention or require either maternal or infant drug testing.

160. CAPTA also does not mandate drug testing without informed consent.

161. Under state regulation, meanwhile, ambulatory care facilities and hospitals are required to report “substance-affected infants” to DCP&P pursuant to N.J.A.C. 3A:26-1.1(a).



162. N.J.A.C. 3A:26-1.2 defines a “substance-affected infant” as an infant whose mother had a positive toxicology screen for a controlled substance or metabolite thereof during pregnancy or at the time of delivery; an infant who has a positive toxicology screen for a controlled substance after birth that is reasonably attributable to maternal substance use during pregnancy; an infant who displays the effects of prenatal controlled substance exposure or symptoms of withdrawal resulting from prenatal controlled substance exposure; or an infant who displays the effects of a fetal alcohol spectrum disorder (“FASD”).

163. Neither this provision nor any other provision of New Jersey law, however, requires the drug testing of a pregnant patient.

164. New Jersey law also does not require a hospital or other medical facility to conduct a drug test on a newborn.

165. New Jersey law, however, does require health care providers to ask for and obtain informed consent prior to drug testing a pregnant woman. Informed consent requires the disclosure of sufficient information to enable a patient to evaluate all available options in their course of treatment. Rothman, 110 N.J. at 208.

166. No provision of New Jersey law requires health care providers to conduct a urine drug test on a pregnant patient without first obtaining informed consent.

### **COUNT ONE**

#### **DISCRIMINATION BASED ON PREGNANCY IN VIOLATION OF THE LAW AGAINST DISCRIMINATION, N.J.S.A. 10:5-12(f)(1) Universal Drug Testing of Admitted Pregnant Patients**

167. Plaintiffs repeat the allegations set forth in the preceding paragraphs of this Complaint as though set forth fully herein.

168. The LAD makes it unlawful for any owner, manager, agent, or employee of any place of public accommodation to discriminate against any person in the furnishing of advantages, facilities, or privileges on the basis of pregnancy. N.J.S.A. 10:5-12(f)(1).

169. Hospitals are places of public accommodation under the LAD. N.J.S.A. 10:5-5(1).

170. Named and unnamed victims are “persons” as that term is defined in the LAD.

171. Differential treatment is a form of illegal discrimination that occurs when a person in a protected class is treated less favorably than those not in the protected class.

172. Virtua subjected named and unnamed victims to differential treatment based on pregnancy in violation of the LAD.

173. Virtua has implemented a policy of universal drug testing solely for pregnant patients arriving at network hospitals for inpatient admission to its Labor and Delivery or High-Risk Obstetrics Units. Virtua has no comparable policy for non-pregnant patients being admitted to its hospitals for inpatient care. Indeed, Virtua does not subject any other category or class of patients to universal drug testing upon inpatient admission to its hospitals.

174. While compliance with state regulation requires Virtua to report when pregnant patients have a “positive toxicology screen,” nothing in state or federal law requires or renders necessary universal testing of all pregnant patients upon inpatient admission to the hospital.

175. Neither state nor federal law require urine drug testing of pregnant patients.

176. Virtua’s policy of universal drug testing for pregnant patients exposes pregnant patients to significant harm.

177. Under state regulation, any “positive toxicology” result for a pregnant patient—no matter its possible cause—must be reported to DCP&P for possible investigation.

178. Because pregnant patients can have positive toxicology results based on the consumption of prescribed medications, over-the-counter medications, or foods that contain poppy seeds, Virtua's universal drug testing policy results in pregnant patients being subject to intrusive child abuse or neglect investigations by DCP&P even when they have no prior history of using illicit substances and there are no indications of illicit drug use during pregnancy.

179. Virtua's policy of universal drug testing has resulted in pregnant patients at Virtua being disproportionately subject to reporting to DCP&P for possible child abuse or neglect compared to patients at other hospitals.

180. The adverse consequences of Virtua's universal drug testing policy fall directly on pregnant patients, interfering with their privacy and their rights as parents.

181. In the alternative, Virtua's universal drug testing policy requiring a urine drug test for all pregnant patients upon admission to its Labor and Delivery or High-Risk Obstetrics Units has an unlawful disparate impact based on pregnancy in violation of the LAD.

182. Virtua's universal drug testing policy has a disproportionate negative impact on pregnant patients by subjecting them to drug testing to which non-pregnant patients seeking inpatient admission are not subject.

183. Virtua's universal drug testing policy is not necessary to achieve a substantial, legitimate, non-discriminatory interest.

184. Virtua's stated justification for universal drug testing of pregnant patients according to the Position Statement it submitted to DCR is to "identify whether a newborn is at risk for NAS," or neonatal abstinence syndrome.

185. In both its position statement and Maternal Care Manual, Virtua also separately asserts that mandatory drug testing of pregnant patients can “improve identification of mothers at risk for transmitting infectious disease to their newborn.”

186. Universal drug testing does not advance either stated objective.

187. Numerous renowned medical and professional organizations, including ASAM and ACOG, recommend verbal drug screening, rather than universal drug testing, during pregnancy and upon admission to labor and delivery. These organizations and other experts have indicated that universal drug testing is not necessary to identify the risk of neonatal abstinence syndrome.

188. Relying on drug testing is not recommended by the greater medical community in part because a positive drug test result, even when confirmed, only indicates that a particular substance is present in the sample provided, and does not indicate the source or the degree of impairment of either the pregnant person or the newborn.

189. A positive result does not indicate the source of the substance; whether the pregnant person has engaged in substance abuse or is addicted to controlled substances; the recency, frequency, or amount of use; or the degree of impairment of either the pregnant patient or newborn.

190. A drug test also is not necessary to identify the presence of “infectious diseases.” Even assuming a urine or blood test may be necessary to identify the presence of infectious diseases, the hospital would not need to administer a drug test on that urine or blood sample to achieve that goal.

191. Virtua’s rationale for its universal drug-testing policy of pregnant patients is unfounded. Any justifications offered by Defendants are pretextual.

192. There are also less discriminatory alternatives for achieving Virtua’s purported interests.

193. Verbal screening of pregnant patients is an effective and less discriminatory method for identifying potentially substance-affected infants than drug testing an infant's birthing parent during pregnancy or at the time of delivery.

194. Observation of an infant during the first 24 to 72 hours after birth is an effective and less discriminatory method for identifying potentially substance-affected infants and the presence of infectious disease than drug testing an infant's birthing parent during pregnancy or at the time of delivery.

195. The LAD violations described herein were committed by Defendants oppressively, willfully, and maliciously.

196. As a direct and proximate result of Defendants' LAD violations, named and unnamed victims suffered damages, including but not limited to, humiliation, emotional distress, and mental pain and anguish.

## **COUNT TWO**

### **DISCRIMINATION BASED ON PREGNANCY IN VIOLATION OF THE LAW AGAINST DISCRIMINATION, N.J.S.A. 10:5-12(f)(1)**

#### **Failing to Obtain Informed Consent from Admitted Pregnant Patients**

197. Plaintiffs repeat the allegations set forth in the preceding paragraphs of this Complaint as though set forth fully herein.

198. The LAD makes it unlawful for any owner, manager, agent, or employee of any place of public accommodation to discriminate against any person in the furnishing of advantages, facilities, or privileges on the basis of pregnancy. N.J.S.A. 10:5-12(f)(1).

199. Hospitals are places of public accommodation under the LAD. N.J.S.A. 10:5-5(1).

200. Named and unnamed victims are "persons" as that term is defined in the LAD.

201. Differential treatment is a form of illegal discrimination that occurs when a person in a protected class is treated less favorably than those not in the protected class.

202. Virtua subjected named and unnamed victims to differential treatment based on pregnancy in violation of the LAD.

203. Virtua's Maternal Care Manual indicates that informed consent "must be obtained" for a maternal urine drug screen prior to inpatient "admission to Labor and Delivery or High-Risk Obstetrics for all pregnant patients."

204. Nonetheless, medical staff at Virtua have engaged in a pattern and practice of unlawfully discriminating against patients on the basis of pregnancy by failing to obtain informed consent from pregnant patients in advance of universal drug testing.

205. Upon information and belief, Virtua has otherwise adhered to its informed consent policies with respect to other non-pregnant patients seeking inpatient admission.

206. Any justifications offered by Defendants for failing to obtain informed consent from K.K., B.C., and other pregnant patients are pretextual, as no possible justification or exigent circumstance exists in the accounts of K.K. and B.C. to justify Virtua's failure to secure informed consent.

207. In the alternative, Virtua operated its Labor and Delivery and High-Risk Obstetrics Units in a manner that actually and predictably resulted in a disproportionately negative impact on pregnant patients by repeatedly failing to obtain informed consent prior to universal drug testing in these Units.

208. Upon information and belief, Virtua failed to adequately train staff regarding the need for, and proper means by which to obtain, informed consent, and did not maintain sufficiently

clear safeguards in its policies to ensure that pregnant patients seeking inpatient admission would provide informed consent before being subject to drug testing.

209. Upon information and belief, Virtua neglected to or was willfully indifferent to implementing, enforcing or taking proper remedial actions to investigate, stop, or prevent violations of its informed consent policies in connection with the universal testing of admitted pregnant patients.

210. Virtua's practice of conducting drug tests on pregnant patients without informed consent denied pregnant patients in need of or seeking hospital admission their right to privacy and self-determination.

211. Virtua's practice of conducting drug tests on pregnant patients without informed consent also caused these patients to submit to drug testing without being fully aware of that decision or its consequences, including that a positive test would result in notification to, and a possible investigation of, suspected child abuse or neglect by DCP&P.

212. Universal drug testing without informed consent undermines the confidentiality and trust at the core of the doctor-patient relationship.

213. It disrupts the bodily autonomy of the pregnant person and their newborn.

214. It is wholly inconsistent with federal and state law.

215. It creates a fear of punishment that may prevent pregnant patients from seeking vital health services during pregnancy and at the time of delivery.

216. It runs contrary to treating substance use disorder as a health condition with social and behavioral dimensions.

217. In light of the foregoing, there are no substantial, legitimate, non-discriminatory interests that support Virtua's deviations from its own express informed consent policy. The LAD violations described herein were committed by Virtua oppressively, willfully, and maliciously.

218. As a direct and proximate result of Virtua's violations, named and unnamed victims suffered damages, including but not limited to, humiliation, emotional distress, and mental pain and anguish.

### **COUNT THREE**

#### **DISCRIMINATION BASED ON SEX IN VIOLATION OF THE LAW AGAINST DISCRIMINATION, N.J.S.A. 10:5-12(f)(1) Universal Drug Testing of Admitted Pregnant Women**

219. Plaintiffs repeat the allegations set forth in the preceding paragraphs of this Complaint as though set forth fully herein.

220. The LAD makes it unlawful for any owner, manager, agent, or employee of any place of public accommodation to discriminate against any person in the furnishing of advantages, facilities, or privileges on the basis of sex. N.J.S.A. 10:5-12(f)(1).

221. Hospitals are places of public accommodation under the LAD. N.J.S.A. 10:5-5(1).

222. Named and unnamed victims are "persons" as that term is defined in the LAD.

223. Virtua subjected named and unnamed victims to differential treatment based on sex in violation of the LAD.

224. Virtua's policies requiring universal drug testing expressly single out women for differential treatment. Virtua's policy is expressly titled the "Maternal Care Manual" and uses language that specifically applies to pregnant women. For example, it requires universal drug screening and then reporting to DCP&P "for any family whose mother or infant" had a positive drug screen.



225. Thus, even among pregnant patients, Virtua’s policy singles out pregnant mothers for reporting to DCP&P.

226. In the alternative, Virtua’s universal drug testing policy requiring a urine drug test for all patients upon admission to its Labor and Delivery or High-Risk Obstetrics Units has an unlawful disparate impact based on sex.

227. Virtua’s universal drug testing policy for pregnant patients, outlined in their “Maternal Care Manual,” has a disproportionate negative impact on women. Upon information and belief, the vast majority of Virtua’s patients seeking admission to its Labor and Delivery or High-Risk Obstetrics Units are women. Virtua does not subject any group of patients comprised entirely or mostly of men to the “Maternal Care Manual” policies, nor do they subject any group of patients comprised entirely or mostly of men to any other policy requiring universal drug testing upon inpatient hospital admission.

228. For the reasons set forth in Sections I.A-B (paragraphs 18-46) of this Complaint, universal drug testing of pregnant patients results in women disproportionately being subject to drug testing.

229. For the reasons set forth in Section I.C (paragraphs 47- 63) of this Complaint, universal drug testing of pregnant patients results in women being disproportionately reported to DCP&P, even when they have not consumed any illicit substances.

230. For the reasons set forth in Section I.B (paragraphs 30-46) of this Complaint, universal drug testing is not necessary to advance a substantial, legitimate, non-discriminatory interest.

231. For the reasons set forth in Section I.B (paragraphs 30-46) of this Complaint, Virtua’s justifications would be better served by less discriminatory alternatives.

232. The LAD violations described herein were committed by Defendants oppressively, willfully, and maliciously.

233. As a direct and proximate result of Defendants' LAD violations, named and unnamed victims suffered damages, including but not limited to, humiliation, emotional distress, and mental pain and anguish.

#### **COUNT FOUR**

##### **DISCRIMINATION BASED ON SEX – IN VIOLATION OF THE LAW AGAINST DISCRIMINATION, N.J.S.A. 10:5-12(f)(1) Failing to Obtain Informed Consent from Admitted Pregnant Women**

234. Plaintiffs repeat the allegations set forth in the preceding paragraphs of this Complaint as though set forth fully herein.

235. The LAD makes it unlawful for any owner, manager, agent, or employee of any place of public accommodation to discriminate against any person in the furnishing of advantages, facilities, or privileges on the basis of sex. N.J.S.A. 10:5-12(f)(1).

236. Hospitals are places of public accommodation under the LAD. N.J.S.A. 10:5-5(1).

237. Named and unnamed victims are "persons" as that term is defined in the LAD.

238. Virtua subjected named and unnamed persons to differential treatment based on sex in violation of the LAD.

239. Virtua's Maternal Care Manual states that informed consent "must be obtained" for a urine drug screen prior to inpatient "admission to Labor and Delivery or High-Risk Obstetrics for all pregnant patients."

240. Virtua, however, operated its Labor and Delivery and High-Risk Obstetrics Units in a manner that resulted in Virtua staff repeatedly failing to obtain informed consent from pregnant women, including K.K. and B.C., prior to administering urine drug tests.

241. Upon information and belief, Virtua has not repeatedly failed to obtain informed consent from men prior to administering urine drug tests.

242. In the alternative, Virtua's practice of failing to obtain informed consent from pregnant patients resulted in a disparate impact based on sex.

243. Virtua's practice of failing to obtain informed consent from pregnant patients has had a disproportionately negative impact on women. Upon information and belief, the vast majority of Virtua's patients seeking admission to its Labor and Delivery or High-Risk Obstetrics Units are women.

244. Virtua's practice of conducting drug tests without informed consent in its Labor and Delivery or High-Risk Obstetrics Units denied pregnant women in need of or seeking hospital admission their right to privacy and self-determination.

245. Virtua's practice of conducting drug tests without informed consent in its Labor and Delivery or High-Risk Obstetrics Units also caused these women to submit to drug testing without being aware of it or its consequences, including that a positive test would result in notification to, and a possible investigation of suspected child abuse or neglect by DCP&P.

246. For the reasons set forth in Section I.D (paragraphs 70-81) of this Complaint, there is no substantial, legitimate, non-discriminatory interest that supports Virtua's deviations from its own express informed consent policies for pregnant women.

247. Upon information and belief, Virtua also failed to adequately train staff in its Labor and Delivery or High-Risk Obstetrics Units regarding the need and proper means with which to obtain informed consent and neglected to or was willfully indifferent to implementing, enforcing or taking proper remedial actions to investigate, stop, or prevent violations of its informed consent policies in connection with the universal testing of admitted pregnant women.

248. The LAD violations described herein were committed by Virtua oppressively, willfully, and maliciously.

249. As a direct and proximate result of Virtua's violations, named and unnamed victims suffered damages, including but not limited to, humiliation, emotional distress, and mental pain and anguish.

### **COUNT FIVE**

#### **DEPRIVATION OF THE SUBSTANTIVE DUE PROCESS RIGHT TO PRIVACY IN VIOLATION OF THE NEW JERSEY CIVIL RIGHTS ACT,**

#### **N.J.S.A. 10:6-2(A)**

#### **Failing to Obtain Informed Consent to Admitted Pregnant Patients**

250. Plaintiff repeats the allegations set forth in the preceding paragraphs of this Complaint as though fully set forth herein.

251. The NJCRA, N.J.S.A. 10:6-2(a), authorizes the New Jersey Attorney General to bring a civil action on behalf of an injured party when "a person, whether or not acting under color of law, subjects or causes to be subjected any other person to the deprivation of . . . any substantive rights, privileges, or immunities secured by the Constitution or laws of this State."

252. The New Jersey Constitution guarantees the right to privacy. N.J. Const. art. I, ¶ 1.

253. The right to privacy is a fundamental right that implicates the right to substantive due process.

254. Deprivation of a person's right to privacy violates the right to substantive due process protected by the New Jersey Constitution.

255. The Attorney General is authorized under the NJCRA to bring a civil action against a party who has deprived a person of their right to privacy.

256. Failing to obtain a pregnant patient's informed consent before conducting a urine drug test deprives the patient of their right to privacy and their right to self-determination.

257. Virtua engaged in a systematic practice of failing to obtain informed consent prior to performing a urine drug test on pregnant patients upon hospital admission.

258. Virtua's failure to comply with their policy of obtaining informed consent from pregnant patients prior to administering a urine drug test violates the fundamental privacy rights of patients protected by the New Jersey Constitution and the NJCRA.

259. Virtua's failure to comply with their policy of obtaining informed consent from pregnant patients prior to administering a urine drug test further violates rights protected under state law, as specified in Section I.D (paragraphs 70-72), including the right to "receive from the physician information necessary to give informed consent" under N.J.S.A. 26:2H-12.8.

260. As a direct and proximate result of Virtua's violations, named and unnamed victims suffered damages, including but not limited to, humiliation, emotional distress, and mental pain and anguish.

### **DEMAND FOR RELIEF**

WHEREFORE, based upon the foregoing allegations, Plaintiffs respectfully petition this Court for judgment as follows:

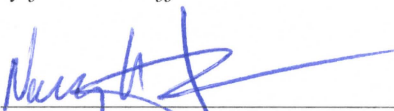
- (a). Finding that Defendants committed the acts and omissions set forth in this Complaint;
- (b). Finding that such acts and omissions constitute violations of the LAD or actions in furtherance of violating the LAD, and that such acts and omissions constitute violations of the NJCRA or actions in furtherance of violating the NJCRA;
- (c). Granting Plaintiffs appropriate equitable relief, including, but not limited to, enjoining Virtua's universal drug testing policy for pregnant patients seeking admission to its Labor and Delivery and High-Risk Obstetrics Units, enjoining Virtua's practice of failing to obtain informed consent prior to administering drug tests, and other permanent injunctive relief pursuant to the provisions of the LAD and NJCRA;

- (d). Ordering Defendants to modify their policies, practices, and procedures as necessary to ensure their practices and procedures do not discriminate on the basis of pregnancy or sex;
- (e). Ordering Defendants to submit to monitoring by DCR for a period of five years;
- (f). Awarding compensatory damages to all aggrieved parties, including named and unnamed victims, for humiliation, emotional distress and mental pain and anguish caused by Defendants' discriminatory conduct in accordance with N.J.S.A. 10:5-13(a)(2)(b) and N.J.S.A. 10:6-2(a);
- (g). Assessing Defendants a civil monetary penalty for each violation of the LAD in accordance with N.J.S.A. 10:5-14.1a;
- (h). Assessing Defendants a civil monetary penalty for each violation of the NJCRA in accordance with N.J.S.A. 10:6-2(a),(e) and;
- (i). Granting Plaintiffs' attorney's fees, expenses, and costs in accordance with N.J.S.A. 10:5-27.1 and N.J.S.A. 10:6-2(a).
- (j). Affording Plaintiffs and other affected parties any additional relief the Court may deem just and equitable.

MATTHEW J. PLATKIN  
ATTORNEY GENERAL OF NEW JERSEY

Attorney for Plaintiff Matthew J. Platkin,  
Attorney General of New Jersey, and  
Plaintiff Sundeep Iyer, Director,  
New Jersey Division of Civil Rights  
*Attorney for Plaintiffs*

By:

  
\_\_\_\_\_  
Nancy M. Trasande  
Shefali Saxena  
Sarah Nealon  
*Deputy Attorneys General*

Mayur P. Saxena  
*Assistant Attorney General*

Dated: September 26, 2024  
Newark, New Jersey

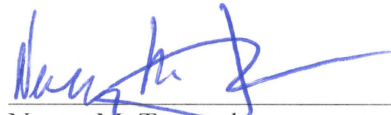
**RULE 4:5-1(b)(2) CERTIFICATION**

I certify that Plaintiffs are not aware of any other action pending in any court or any pending arbitration proceeding in which the matter in controversy here is the subject. I further certify that no other action or arbitration proceeding is contemplated by Plaintiffs concerning the matter in controversy here. I further certify that Plaintiffs are not aware of any other party who should be joined in this action at the current time.

MATTHEW J. PLATKIN  
ATTORNEY GENERAL OF NEW JERSEY

Attorney for Plaintiff Matthew J. Platkin,  
Attorney General of New Jersey, and  
Plaintiff Sundeep Iyer, Director,  
New Jersey Division of Civil Rights  
*Attorney for Plaintiffs*

By:



Nancy M. Trasande  
*Deputy Attorney General*

Dated: September 26, 2024  
Newark, New Jersey




**RULE 4:5-1(b)(3) COMPLIANCE**

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

MATTHEW J. PLATKIN  
ATTORNEY GENERAL OF NEW JERSEY

Attorney for Plaintiff Matthew J. Platkin,  
Attorney General of New Jersey, and  
Plaintiff Sundeep Iyer, Director,  
New Jersey Division of Civil Rights  
*Attorney for Plaintiffs*

By:

  
\_\_\_\_\_  
Nancy M. Trasande  
*Deputy Attorney General*

Dated: September 26, 2024  
Newark, New Jersey

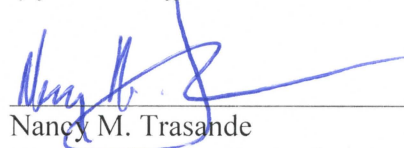
**JURY DEMAND**

Pursuant to N.J.S.A. § 10:5-13, Plaintiffs demand a jury trial for all claims brought under the LAD and any other issues triable by a jury.

MATTHEW J. PLATKIN  
ATTORNEY GENERAL OF NEW JERSEY

Attorney for Plaintiff Matthew J. Platkin,  
Attorney General of New Jersey, and  
Plaintiff Sundeep Iyer, Director,  
New Jersey Division of Civil Rights  
*Attorney for Plaintiffs*

By:

  
\_\_\_\_\_  
Nancy M. Trasande  
*Deputy Attorney General*

Dated: September 26, 2024  
Newark, New Jersey

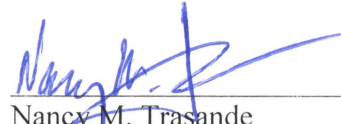
**DESIGNATION OF TRIAL COUNSEL PURSUANT TO R. 4:5-1(c)**

Deputy Attorney General Nancy M. Trasande is hereby designated as trial counsel for this matter.

MATTHEW J. PLATKIN  
ATTORNEY GENERAL OF NEW JERSEY

Attorney for Plaintiff Matthew J. Platkin,  
Attorney General of New Jersey, and  
Plaintiff Sundeep Iyer, Director,  
New Jersey Division of Civil Rights  
*Attorney for Plaintiffs*

By:



\_\_\_\_\_  
Nancy M. Trasande  
*Deputy Attorney General*

Dated: September 26, 2024  
Newark, New Jersey

# Civil Case Information Statement

## Case Details: CAMDEN | Civil Part Docket# L-002938-24

**Case Caption:** PLATKIN MATTHEW VS VIRTUA HEALTH, INC.

**Case Initiation Date:** 09/26/2024

**Attorney Name:** NANCY M TRASANDE

**Firm Name:** ATTORNEY GENERAL LAW

**Address:** 124 HALSEY ST PO BOX 45029  
NEWARK NJ 07101

**Phone:** 9736482500

**Name of Party:** PLAINTIFF : Platkin, Matthew, J

**Name of Defendant's Primary Insurance Company**  
(if known): Unknown

**Case Type:** LAW AGAINST DISCRIMINATION (LAD) CASES

**Document Type:** Complaint with Jury Demand

**Jury Demand:** YES - 6 JURORS

**Is this a professional malpractice case?** NO

**Related cases pending:** NO

**If yes, list docket numbers:**

**Do you anticipate adding any parties (arising out of same transaction or occurrence)?** NO

**Does this case involve claims related to COVID-19?** NO

**Are sexual abuse claims alleged by: Matthew J Platkin?** NO

**Are sexual abuse claims alleged by: Sundeep Iyer?** NO

## THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

**Do parties have a current, past, or recurrent relationship?** NO

**If yes, is that relationship:**

**Does the statute governing this case provide for payment of fees by the losing party?** YES

**Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:**

**Do you or your client need any disability accommodations?** NO

**If yes, please identify the requested accommodation:**

**Will an interpreter be needed?** NO

**If yes, for what language:**

**Please check off each applicable category: Putative Class Action?** NO **Title 59?** NO **Consumer Fraud?** NO **Medical Debt Claim?** NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

09/26/2024  
Dated

/s/ NANCY M TRASANDE  
Signed

