

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Edith Ramirez, Chairwoman

1. Respondent Michael C. Hughes was the CEO and partial owner of PaymentsMD from approximately August 2008 to July 2014. Individually, or in concert with others, he formulated, directed, controlled, or participated in the policies, acts, or practices of the company. He resides in Atlanta, Georgia.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

- c. In communications disseminated through video means (e.g., television or streaming video), the required disclosures are in writing in a form consistent with subparagraph (a) of this definition and shall appear on the screen for a duration sufficient for an ordinary consumer to read and comprehend them, and in the same language as the predominant language that is used in the communication;
- d. In communications made through interactive media, such as the Internet, online services, and software, the required disclosures are unavoidable and presented in a form consistent with subparagraph (a) of this definition, in addition to any audio or video presentation of them; and
- e. In all instances, the required disclosures: (1) are presented in an understandable language and syntax, and (2) include nothing contrary to, inconsistent with, or in mitigation of any statement contained within the disclosure or within any document linked to or referenced therein.

I.

IT IS ORDERED that respondent, directly or through any corporation, subsidiary, division, website, or other device or affiliate owned or controlled by respondent, in or affecting commerce, shall not misrepresent, in any manner, expressly or by implication, the extent to which respondent uses, maintains, and protects the privacy, confidentiality, security, or integrity of covered information collected from or about consumers, including but not limited to:

- A. Services for which consumers are being enrolled in as part of sign up process;
- B. The extent to which respondent will share covered information with, or seek covered information from, third parties; and
- C. The purpose(s) for which covered information collected from third parties will be used.

II.

IT IS FURTHER ORDERED that respondent directly or through any corporation, subsidiary, division, website, or other device or affiliate owned or controlled by respondent, in or affecting commerce, in connection with the online advertising, marketing, promotion, offering for sale, or dissemination of any service, shall:

- A. Separate and apart from any final “end user license agreement,” “privacy policy,” “terms of use” page, or similar document clearly and prominently disclose to consumers the practices regarding the collection, use, storage, disclosure or sharing of health information prior to seeking authorization to collect health information from a third party; and
- B. Obtain affirmative express consent from consumers prior to collecting health information from a third party.

III.

IT IS FURTHER ORDERED that respondent, directly or through any corporation, subsidiary, division, website, or other device or affiliate owned or controlled by respondent, in or

by or on behalf of respondent, that contradict, qualify, or call into question compliance with this order.

V.

IT IS FURTHER ORDERED that respondent, for any business that such respondent is the majority owner of or controls directly or indirectly, shall deliver a copy of this order to all current, and for five (5) years to all future subsidiaries, principals, officers, directors, and m

- A. any Part in this order that terminates in fewer than twenty (20) years;
- B. this order's application to any respondent that is not named as a defendant in such complaint; and
- C. this order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further that if such complaint is dismissed or a federal court rules that respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order as to such respondent will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between ~~the date~~ that complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

By the Commission.

Donald S. Clark  
Secretary

SEAL:  
ISSUED: January 9, 2015