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[Home](#) > AG Ferguson sues CHI Franciscan over price-fixing and anticompetitive Kitsap deals

## AG Ferguson sues CHI Franciscan over price-fixing and anticompetitive Kitsap deals

**FOR IMMEDIATE RELEASE:**

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*Thousands of patients saw fewer choices, increased costs*

**OLYMPIA** — Attorney General Bob Ferguson filed a federal lawsuit today against CHI Franciscan, The Doctors Clinic and WestSound Orthopaedics seeking to undo two unlawful agreements that have raised prices and decreased competition for healthcare on the Kitsap Peninsula.

Thousands of Kitsap Peninsula patients have faced higher prices, increased wait times, difficulty in scheduling procedures, and a reduction in their choice of services and locations. As a result, CHI Franciscan has netted well over \$1 million in ill-gotten gains so far.

“These transactions were intentionally made to decrease competition, increase prices, and pad CHI Franciscan’s bottom line at the expense of its patients,” Ferguson said.

In July 2016, CHI Franciscan acquired the assets of WestSound Orthopaedics, a practice of seven orthopedic physicians based in Silverdale. Two months later, CHI Franciscan announced an affiliation with The Doctors Clinic, a multi-specialty practice with more than 50 physicians, which has seven locations throughout Kitsap County.

In the lawsuit, filed today in the U.S. District Court for the Western District of Washington, the state alleges that both transactions violate state and federal antitrust laws. Antitrust laws protect consumers by ensuring that companies compete to offer high-quality goods and services at low prices.

In announcing the Kitsap transactions, CHI Franciscan and TDC touted them as “an exciting direction for Kitsap County residents and families,” claiming they would “enhance patient access and efficiency.”

Privately, in documents obtained in the Attorney General’s Office’s investigation, officials at CHI Franciscan and TDC discussed the deals as a boon to their bottom line and harmful to patient care.

CHI Franciscan’s Chief Financial Officer, Mike Fitzgerald, wrote in an email: “I am all for taking advantage of hospital based pricing. ... It would be great to drop a couple of million more to our bottom line, if we think we can do it.”

TDC’s former physician president succinctly summarized these effects to its current medical director: “I can’t wait to hear how CHI messages the addition of TDC to [Franciscan Medical Group]. ‘You can now get your outpatient care in a complex, relatively unsafe, and vastly more expensive location. You are welcome, Kitsap County...’”

## **Anticompetitive, bad for patients**

The complaint alleges that the affiliation between Franciscan and TDC is a price-fixing agreement in violation of the antitrust laws. CHI Franciscan also acquired TDC's ambulatory surgery center, imaging and laboratory services. CHI Franciscan has since shuttered TDC's imaging services, as well as a large portion of the services provided at the ambulatory surgery center, and has shifted that care to Harrison Medical Center. CHI Franciscan did not acquire TDC's medical practices.

The WestSound acquisition, along with the affiliation with TDC, has combined the three largest providers of orthopedic physician services in the Kitsap region, greatly reducing choices for Kitsap consumers seeking orthopedic services close to home.

In 2016, the AGO received complaints on behalf of consumers and began investigating CHI Franciscan's agreements in Kitsap County. The office found the true motive for both deals was to gain negotiating clout over healthcare insurers and win the ability to charge higher rates for physician services.

Both transactions also enabled CHI Franciscan to capture more patient referrals and shift services to its wholly owned hospital, Harrison Medical Center, the only civilian acute-care hospital in Kitsap County. The transactions have hobbled CHI Franciscan's competitors while allowing it to reap the benefit of more expensive, hospital-based rates.

Overnight, commercial insurers saw double-digit percentage price increases. Rate increases hit the vast majority of procedures covered by contracts with the defendants. These increases were passed on to patients in the form of higher out-of-pocket costs.

## **Unwinding the deals**

The state asks the court to unwind the deals and prevent their recurrence. The complaint also asks the court to order the defendants to pay back the ill-gotten gains of the price-fixing agreement between CHI Franciscan and TDC, as well as pay civil penalties and the state's costs and fees.

Specific pricing information was obtained from parties and insurance companies as part of the Attorney General's investigation. Because that information is competitively sensitive, it has been redacted from the complaint.

Franciscan Health System, doing business as CHI Franciscan Health, is a non-profit healthcare system headquartered in Tacoma. CHI Franciscan has spread northward up both sides of Puget Sound through a series of significant acquisitions in the past five years. It owns and operates seven hospitals in the Puget Sound region and includes over 600 physicians.

Assistant Attorneys General Erica Koscher and Stephen Fairchild are handling the case.

The Antitrust Division of the Attorney General's Office is responsible for enforcing the antitrust provisions of Washington's Unfair Business Practices-Consumer Protection Act, and investigates complaints about potential anti-competitive activity. For more information about filing a complaint, click [here](#).

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