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23 **UNITED STATES DISTRICT COURT**
24 **NORTHERN DISTRICT OF CALIFORNIA**

25 **UNITED STATES OF AMERICA,**

26 Plaintiff,

27 v.

28 **GOODRX HOLDINGS, INC.,** a corporation,
also d/b/a GoodRx Gold, GoodRx Care,
HeyDoctor, and HeyDoctor by GoodRx,

Defendant.

Case No. 23-cv-460

**COMPLAINT FOR PERMANENT
INJUNCTION, CIVIL
PENALTIES, AND OTHER
RELIEF**

29 Plaintiff, the United States of America, acting upon notification and on behalf of the
30 Federal Trade Commission (“Commission” or “FTC”), for its Complaint alleges:

COMPLAINT FOR PERMANENT INJUNCTION, CIVIL PENALTIES, AND OTHER RELIEF
Case No. 23-cv-460

1 with advertisements on Facebook and Instagram. Using Facebook’s ad targeting platform,
 2 GoodRx matched specific users to their personal health information and designed campaigns that
 3 targeted users with advertisements based on their health information—all of which was visible to
 4 Facebook. These campaigns featured advertisements relating to specific medications (e.g.,
 5 Viagra), or specific health conditions (e.g., erectile dysfunction) that GoodRx believed would be
 6 of interest to them, such as the one in Exhibit A below:

7 **Exhibit A:**



18 6. In one campaign, which GoodRx ran in August 2019, GoodRx compiled lists of
 19 its users who had purchased particular medications, uploaded their email addresses, phone
 20 numbers, and mobile advertising IDs to Facebook to identify their profiles, and labeled them by
 21 the medication they had purchased. GoodRx then targeted these users with health-related
 22 advertisements.

23 7. GoodRx also violated its promises to users by failing to implement sufficient
 24 policies or procedures to prevent the improper disclosure of sensitive health information or to
 25 notify users of breaches of that information. Until a consumer watchdog publicly revealed
 26 GoodRx’s actions in February 2020, GoodRx had no sufficient formal, written, or standard
 27 privacy or data sharing policies or compliance programs in place. And, even after GoodRx’s
 28

1 practices came to light, it failed to notify users that their health information had been disclosed
2 without their authorization.

3 8. GoodRx’s repeated, unauthorized disclosures of users’ personal and health
4 information over the course of a four-year period have revealed extremely intimate and sensitive
5 details about GoodRx users that could be linked to (or used to infer information about) chronic
6 physical or mental health conditions, medical treatments and treatment choices, life expectancy,
7 disability status, information relating to parental status, substance addiction, sexual and
8 reproductive health, sexual orientation, and other highly sensitive and personal information.

9 9. These actions are deceptive or unfair acts, in violation of Section 5 of the FTC
10 Act, 15 U.S.C. § 45(a), and violate the Health Breach Notification Rule, 16 C.F.R. § 318.

11 **II. JURISDICTION, VENUE, AND DIVISIONAL ASSIGNMENT**

12 10. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a),
13 and 1345.

14 11. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(1), (b)(2), (c)(2), and
15 (d), and 15 U.S.C. § 53(b)(2).

16 12. Assignment to the San Francisco Division or Oakland Division is proper pursuant
17 to Local Rule 3–2(d), because Defendant GoodRx has a corporate office in San Francisco
18 County, where certain of its employees and executives are located.

19 **III. THE PARTIES**

20 13. Plaintiff is the United States of America, acting on behalf of and upon the
21 notification of the FTC.

22 14. Defendant GoodRx is a Delaware corporation with its principal office or place of
23 business at 2701 Olympic Boulevard, West Building, Suite 200, Santa Monica, CA, 90404.
24 GoodRx transacts or has transacted business in this District and throughout the United States.

25 **IV. COMMERCE**

26 15. At all times relevant to this Complaint, GoodRx has maintained a substantial
27 course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act,
28 15 U.S.C. § 44.

1 phone number), as well as their date of birth and credit card information; GoodRx Gold may also
2 collect patient clinical information. Through their account, GoodRx Gold users can track their
3 medication purchase history (medication name, purchase date, dosage, pharmacy, and
4 prescriber).

5 21. GoodRx also receives personal and health information from PBMs. When users
6 purchase medication using GoodRx Coupons, the PBM processes the transaction and sends a
7 claims record to GoodRx (“Medication Purchase Data”), containing name, date of birth, and
8 information about the prescription filled.

9 **B. GoodRx’s Telehealth Services**

10 22. Through another product, “GoodRx Care,” GoodRx offers online primary care
11 visits with healthcare providers (“Telehealth Services”), through its website
12 (www.Goodrx.com/Care) or through the GoodRx Care mobile app. GoodRx began offering
13 telehealth services in April 2019, after it acquired HeyDoctor, LLC. Until April 2021, GoodRx
14 marketed its telehealth services as “HeyDoctor” and “HeyDoctor by GoodRx.”

15 23. GoodRx Care advertises its services for specific health conditions, including
16 treatment and prescriptions relating to sexual health, general health and preventive care services,
17 and prescription medication refills. To access Telehealth Services, users must first access a
18 condition-specific “Treatment Page,” which details GoodRx Care’s services relating to a specific
19 condition. Users must also provide their personal contact, health, and payment information.

20 24. GoodRx cross-markets its prescription discount products and telehealth services.
21 When a medical professional prescribes a medication during a telehealth session, GoodRx may
22 prompt the user to fill the prescription using a GoodRx Coupon.

23 **VI. GOODRX’S DECEPTIVE AND UNFAIR BUSINESS PRACTICES**

24 **A. Deceptive Statements about Privacy and Data Sharing in**

25 **GoodRx’s Privacy Policies**

26 25. In connection with the advertising and sale of GoodRx’s goods and services,
27 GoodRx has disseminated, or caused to be disseminated, false and deceptive statements about
28

1 GoodRx’s use and disclosure of health and personal information, including privacy policies on
2 the GoodRx and HeyDoctor websites and mobile applications.

3 **1. Promises about Sharing Health Information**

4 26. GoodRx has itself acknowledged that the information it collects from its users is
5 sensitive, and promised users that GoodRx would treat their information in accordance with its
6 privacy policies.

7 27. GoodRx’s privacy policy, in describing its use of third-party tracking tools,
8 assured users that GoodRx would never disclose personal health information to advertisers or
9 any third parties. Between at least October 2017 through March 2019, GoodRx promised:

10 However, we never provide advertisers or any other third parties any information *that*
11 *reveals a personal health condition or personal health information.*¹ [emphasis
12 added].

13 28. GoodRx also promised users that it “rarely shares” personal health information
14 with third parties. And it promised that, when it did share such information, it “ensures that
15 these third parties are bound to comply with federal standards as to how to treat ‘medical data’
16 that is linked with your name, contact information and other personal identifiers.” This promise
17 appeared in its privacy policy between at least October 2017 and October 2019.

18 29. GoodRx further assured users, between at least October 2017 through December
19 2019, that it would use “personal medical data,” such as information about prescription drugs,
20 only “in limited cases” to fulfill services that users requested. The privacy policy enumerated
21 examples of such uses, including to text or email GoodRx Coupons to users, to provide
22 prescription drug price alerts, and to otherwise contact users directly.

23 30. GoodRx’s privacy policy also promised users that it would ensure the
24 confidentiality of personal health information it disclosed to third parties. Between October and
25 December 2019, GoodRx promised “[w]hen we do disclose your personal information in
26

27 ¹ In or around March 2019, GoodRx removed the phrase “or any other third parties” from this
28 promise. In or around April 2019, GoodRx quietly removed this entire sentence from its privacy
policy, without providing any notice to users of the change.

1 conjunction with your specific medical information, GoodRx takes steps such that these third
2 parties are subject to confidentiality obligations.”

3 31. Further, beginning in or around March 2019, GoodRx promised users that
4 “GoodRx adheres to Digital Advertising Alliance principles. The Digital Advertising Alliance
5 (“DAA”) is an independent organization that establishes and enforces self-regulatory
6 principles relating to privacy and digital advertising. The DAA’s “Self-Regulatory Program for
7 Online Behavioral Advertising” provides that entities “should not collect and use . . .
8 pharmaceutical prescriptions, or medical records about a specific individual for Online
9 Behavioral Advertising without Consent” (the “Sensitive Data Principle”).²

10 32. Emphasizing these promises of heightened privacy protections, in December
11 2019, in a public discussion on Twitter relating to GoodRx’s privacy practices, GoodRx co-CEO
12 Doug Hirsch responded to a tweet by another user, and stated (through use of Twitter handle
13 @dougjoe): “[a]ny information we do receive is stored under the same guidelines as any health
14 entity.”

15 2. Promises about Sharing Personal Information

16 33. GoodRx promised users that it would share users’ personal information, such as
17 name, phone number, and email address, with third parties only for the limited purposes of
18 providing services to users or to contact them directly. Between at least October 2017 through
19 December 2019, GoodRx’s privacy policy informed users:

20 By providing your personal information, you agree to let us use such personal
21 information in order to fulfill your requested service and to reach out to you about
22 prescription savings opportunities.

23 34. GoodRx privacy policies in effect between at least October 2017 through at least
24 March 2020 also told users that GoodRx would share their personal contact information only to
25 provide services directly to users; to comply with the law or legal process; to protect and defend
26

27 ² The DAA defines Consent as “an individual’s action in response to a clear, meaningful and
28 prominent notice regarding the collection and use of data for Online Behavioral Advertising
purposes.”

1 GoodRx’s rights or property; to act in an emergency to protect someone’s safety; in the case of a
2 merger, acquisition, or reorganization; to securely store and process data; and to handle customer
3 requests.

4 **3. HeyDoctor’s Privacy Policy**

5 35. HeyDoctor’s privacy policy told users that it would make use of their personal
6 information only for limited purposes, and made no mention of using or sharing personal health
7 information with third-party advertising platforms. In privacy policies in effect between at least
8 October 2018 and July 2020, HeyDoctor told users that it collected and shared user information
9 with third-party service providers only for the limited purpose of providing access to its
10 Telehealth Services. HeyDoctor further promised users that it implemented contractual and
11 technical protections that limit third-party use of user information to assisting HeyDoctor in
12 providing Telehealth Services. HeyDoctor told users that it would otherwise seek users’ consent
13 before sharing personal information with third parties for other purposes.

14 36. GoodRx’s privacy policy representations described above were false and
15 deceptive. In fact, since 2017, GoodRx has shared its users’ personal and health information
16 with Advertising Platforms and other third parties in violation of its promises, including for
17 targeted advertising, without providing notice or obtaining affirmative express consent.

18 37. Moreover, between April and September 2019, GoodRx displayed a seal at the
19 bottom of the HeyDoctor homepage attesting to its purported compliance with the Health
20 Insurance Portability and Accountability Act of 1996 (“HIPAA”), a statute that sets forth privacy
21 and information security protections for health data. The seal, which bore the Caduceus symbol
22 often associated with the medical field, advertised the following statement: “HIPAA Secure.
23 Patient Data Protected.” In advertising a HIPAA seal, GoodRx signaled to users that it is a
24 HIPAA-covered entity, and that its practices complied with HIPAA’s requirements. Exhibit B
25 shows the HIPAA seal that GoodRx displayed.

Exhibit B:



B. For Years, GoodRx Shared Sensitive Information

About Millions of Users with Advertising Platforms or Other Third Parties

38. Beginning in at least 2017, GoodRx violated its privacy promises by sharing information with Advertising Platforms, including Facebook, Google, and Criteo, about users' prescription medications or personal health conditions, or that users were seeking medical treatment for specific health conditions, along with users' personal contact information and/or persistent identifiers. GoodRx did so without notice to users, and without obtaining consent. This was despite GoodRx's promise that it would never reveal personal health information, including health conditions, to advertisers or other third parties.

39. Specifically, GoodRx integrated third-party tracking tools from Facebook, Google, Criteo, and other third parties into its websites and Mobile App. These tracking tools (including automated web beacons called tracking "pixels" and other automated trackers called "Software Development Kits" ("SDKs")) collect and send data to third parties so that they can provide advertising, data analytics, or other business services to the owner of the website or mobile app. The information sent can include users' contact information, persistent identifiers, location information, and "Events Data," which is information about users' activities while using a website or mobile app.

40. GoodRx tracked and shared "Standard Events," which are records of routine website or app functions, such as the fact that a user launched or closed a mobile app or website. GoodRx also tracked and shared "Custom Events," which are customized records of website or Mobile App interactions unique to the GoodRx user experience. Whereas Standard Events have standardized titles that are applicable to any website or mobile app (such as "Add to Wishlist"), Custom Events have unique, customized names. Rather than giving its Custom Events anonymous names (e.g., "Event_1"), GoodRx chose descriptive titles that conveyed health

1 information about its users. For example, GoodRx created Custom Events with names like
2 “Drug Name” and “Drug Category” that tracked and shared the prescription medication name
3 and health condition(s) associated with each unique GoodRx Coupon that users accessed. As a
4 result, at times, when GoodRx shared a Custom Event, it was sharing its users’ health
5 information.

6 **1. GoodRx Shared Medication and Health Condition Information with Facebook**

7 41. In 2017, GoodRx configured a Facebook tracking pixel on its GoodRx and
8 GoodRx Gold websites to share Standard and Custom Events, which conveyed user health
9 information to Facebook. This included the name of the medication for which users accessed a
10 GoodRx Coupon (“Drug Name,” such as “Lipitor”); the website URL, which in many cases
11 included a medication name; the health condition related to the medication (“Drug Category,”
12 such as “high cholesterol”); the medication quantity (“Drug Quantity,” such as “30-day supply”);
13 the pharmacy name (“PharmName”); and the user’s city, state and zip code. The pixel also
14 collected website microdata with additional information about the prescription medication and
15 health condition(s) for which users accessed GoodRx Coupons. Finally, the pixel collected
16 users’ IP addresses.

17 42. In May 2019, GoodRx configured the pixel to automatically share with Facebook
18 additional personal information, including user first and last name; email address; phone number;
19 city, state, and zip code; and gender.

20 43. GoodRx shared additional personal and health information with Facebook
21 through the pixel beginning in December 2019, when it configured certain of its URL addresses
22 to embed user first and last name, email address, date of birth, phone number, and in some
23 instances, prescription medication name. These URLs were shared with Facebook.

24 44. Similarly, in 2018, HeyDoctor configured a Facebook tracking pixel on its
25 website to share Standard and Custom Events that conveyed user health information to
26
27
28

1 Facebook. This pixel shared HeyDoctor website URLs, which referenced specific health
2 conditions, such as HeyDoctor Treatment Page URLs.³

3 45. In August 2019, HeyDoctor began prompting users to view a GoodRx Coupon for
4 medications prescribed during their telehealth consultation. When a user did so, GoodRx
5 configured the pixel to share information about the prescribed medication with Facebook,
6 through a Custom Event called “drug.” It shared the medication name (such as “nitrofurantoin”);
7 dosage (such as “100 mg”); form (such as “capsule”); whether the user was interested in viewing
8 the GoodRx Coupon (such as “interested: Yes”); and the name and location of the users’
9 pharmacy (such as “Pharmacy: Capsule Pharmacy, New York, NY”). The pixel also shared
10 users’ IP address, and website microdata with additional information about the prescription
11 medication and health condition(s) for which users accessed GoodRx Coupons.

12 **2. GoodRx Shared Medication and Health Condition Information with Google and Criteo**

13 46. GoodRx configured a Google tracking pixel on its website and an SDK on its
14 GoodRx Mobile App to share Custom Events that conveyed users’ health information with
15 Google, including the name of the medication for which users accessed a GoodRx Coupon (such
16 as “atorvastatin”); drug type (such as “generic”); drug quantity (such as “30”); drug dosage (such
17 as “40 mg”); drug form (such as “tablet”); pharmacy ID; and related health condition. It also
18 configured the Google pixel and SDK to share users’ phone number, email address, and zip code,
19 and collected users’ IP address. In addition, the Google Android and iOS SDKs shared users’
20 latitude and longitude coordinates, and unique advertising IDs, such as IDFA (Apple’s ID for
21 advertisers), AAID (Android’s Advertiser ID), and Android ID, which may be used to target
22 individuals with advertisements.

23
24
25 ³ An example of a HeyDoctor Treatment Page URL referencing a health condition is
26 www.heydoctor.goodrx.com/services/hyperlipidemia, which linked to a Treatment Page relating
27 to HeyDoctor’s treatment services for high cholesterol. These pages were active until April
28 2021, when GoodRx rebranded HeyDoctor as “GoodRx Care.” HeyDoctor (now GoodRx Care)
users selected and accessed Treatment Pages prior to beginning a health consultation with a
medical professional.

1 51. Between 2017 and 2020, GoodRx created and ran targeted advertising campaigns
2 on Facebook and Instagram based on personal health information, as described below:

3 Ad Campaigns Based on Medication Purchase Data

- 4 • **August 4 – 8, 2019:** Based on Medication Purchase Data it receives from PBMs, GoodRx
5 created four Custom Audiences of users who had used a GoodRx Coupon to fill a
6 prescription for Lisinopril, Azithromycin, Atorvastatin, or Prednisone, and named each
7 Custom Audience according to the medication purchased: “lisinopril claims,”
8 “atorvastatin claims,” “azith claims” and “pred claims.” It created these Custom
9 Audiences by uploading the email address, phone number, and/or mobile advertising IDs
of these users. GoodRx targeted these users with advertisements that featured the
purchased prescription.

10 Ad Campaigns Based on Information Shared through the Facebook Pixel

- 11 • **August 2017 – March 2018:** GoodRx targeted users who had visited drug pages for five
12 specific medications: Losartan, Amlodipine, Zolpidem, Topiramate, and Quetiapine.
- 13 • **August 31 – October 31, 2018:** HeyDoctor targeted users who had visited HeyDoctor
14 Treatment Pages relating to specific health conditions. It named each Custom Audience
15 by the health condition corresponding to the Treatment Page visited, including “Acne,”
16 “Birth Control,” “Blood Type,” “Cold Sore,” “Eyelash,” “Female condom,” “Hair Loss,”
“Hepatitis C,” “HIV,” “Metabolism,” “Pre Diabetes,” “Pregnancy,” “Smoking,” “Sinus,”
“TB,” “UTI,” and “Vitamin D.”
- 17 • **November 1, 2018 – February 20, 2019** GoodRx targeted users who previously visited
18 HeyDoctor’s Treatment Page(s) relating to HeyDoctor’s sexually transmitted disease
services. The targeted advertisements promoted HeyDoctor’s STD testing services.
- 19 • **July 22 – August 4, 2019:** GoodRx targeted users who had viewed a GoodRx Coupon
20 for Lipitor, Lisinopril, Neurontin, Prednisone, and Zithromax. The targeted
21 advertisements featured these prescriptions.
- 22 • **November 1 – December 6, 2019:** GoodRx targeted users who viewed HeyDoctor’s
23 Treatment Page for erectile dysfunction. The targeted advertisements promoted
obtaining prescriptions for erectile dysfunction through HeyDoctor.
- 24 • **January 9, 2020 – February 25, 2020:** GoodRx targeted users who had viewed a
25 GoodRx Coupon for Cialis or Sildenafil. The targeted advertisements promoted
26 HeyDoctor’s services.
- 27 • **January 15 – 17, 2020:** GoodRx targeted users who viewed a GoodRx Coupon for birth
28 control medication. The targeted advertisements promoted HeyDoctor’s services.

- **February 3 – 8, 2020:** GoodRx targeted users who accessed a GoodRx Coupon for Cialis or Sildenafil. The targeted advertisements promoted GoodRx Coupons for Viagra.

D. GoodRx Failed to Limit Advertising Platforms and Other Third Parties'

Use of Sensitive Information

52. Since 2017, GoodRx has taken no action to limit how Advertising Platforms like Facebook, Google, and Criteo, and other third parties like Branch and Twilio, could use the personal health information it shared with them. Rather, GoodRx agreed to each of these third parties' standard terms of service, or entered into agreements that permitted each Advertising Platform to use GoodRx users' personal health information expansively, including for other advertising or for their own internal business purposes. This was despite GoodRx's promise that it would take steps to ensure that third parties that received personal health information were bound to comply with "federal standards" and "confidentiality obligations," and HeyDoctor's promise that it would employ "contractual and technical protections" to limit third-party use of users' information.

53. As a result of GoodRx's sharing of personal and health information, at least one third party (Facebook) used Events Data for its own purposes, including its own research and development and ad optimization purposes. Facebook employees also have had access to GoodRx's Ads Manager Account, including Custom Audience names that referenced specific drugs or health conditions.

E. GoodRx Lacked Formal Internal Policies Governing Privacy and Data Sharing

54. Prior to February 2020, despite promises that users could trust GoodRx with their sensitive information, GoodRx did not have sufficient formal, written, or standard internal data sharing policies or procedures that governed how all types of health and personal information could be shared. Nor did it have sufficient or formal compliance programs for reviewing and approving all data sharing requests or third-party tracking tool integrations. It also had no policies or procedures for notifying users of breaches of their personal and health information. As a result, GoodRx marketing department employees created Custom Events conveying personal health information to third parties without going through any formal review or approval

1 process. GoodRx also did not have any employee, manager, executive, or team formally
2 dedicated to the management or oversight of GoodRx’s company-wide privacy and data sharing
3 practices.

4 **F. GoodRx’s Privacy Violations First Came to Light in February 2020**

5 55. On February 25, 2020, *Consumer Reports* published an article (the “*Consumer*
6 *Reports* article”) reporting that GoodRx was sharing health information with Facebook, Google,
7 and other third parties.

8 56. On February 25, 2020, in response to the *Consumer Reports* article, GoodRx’s
9 Chief Technology Officer (“CTO”) stated in an internal email: “[w]e need to strengthen our
10 policies and procedures to ensure that we are consistent about what data we share to whom.”
11 The CTO further stated, “As a first step we need to place 3rd party pixels/sdks and the data that
12 is shared under a strict control process,” and acknowledged, “What we do not have is the data we
13 are sharing by partner along with its business purpose.”

14 57. On February 28, 2020, GoodRx issued a public response acknowledging its
15 sharing of health information with Facebook, stating:

16 [Consumer Reports’] feedback led us to re-examine our policies. In the course of our
17 review, we found that in the case of Facebook advertising, we were not living up to
18 our own standards. For this we are truly sorry, and we will do better.

19 GoodRx also announced that it had “made changes to ensure that personal medical information
20 (for example, a drug name or condition) that you type in on GoodRx will never be shared with
21 Facebook, even in encrypted form.” *GoodRx and Data Privacy*, available at:
22 <https://www.GoodRx.com/blog/GoodRx-data-privacy/> (last accessed on October 30, 2020).

23 58. Despite its own use of health information for advertising, GoodRx reaffirmed that
24 use of health information for advertising purposes was against its policies: “[w]e . . . do not
25 target users with advertising specifying any particular medication based on our data.” *GoodRx*
26 *and Data Privacy*, available at: <https://www.GoodRx.com/blog/GoodRx-data-privacy/> (last
27 accessed on October 30, 2020).

1 65. GoodRx’s violation of the HBNR is ongoing. GoodRx has not notified users, in
2 accordance with the notification provisions of the HBNR, that it breached the security of
3 GoodRx users’ individually identifiable health information through GoodRx’s unauthorized
4 disclosures to Facebook, Google, and others.

5 66. Moreover, GoodRx shared users’ personal health information with third parties in
6 violation of its privacy policy over a period of several years, and announced changes to
7 GoodRx’s privacy and data sharing policies only after GoodRx’s conduct was publicly revealed.
8 And, while GoodRx publicly announced that it had stopped sharing personal health information
9 with Facebook in February 2020, GoodRx continued to transmit personal health information to
10 Facebook until at least November 2020.

11 **VII. VIOLATIONS OF THE FTC ACT**

12 67. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits “unfair or deceptive acts
13 or practices in or affecting commerce.”

14 68. Misrepresentations or deceptive omissions of material fact constitute deceptive
15 acts or practices prohibited by Section 5(a) of the FTC Act.

16 69. Acts or practices are unfair under Section 5 of the FTC Act if they cause or are
17 likely to cause substantial injury to consumers that consumers cannot reasonably avoid
18 themselves and that is not outweighed by countervailing benefits to consumers or competition.
19 15 U.S.C. § 45(n).

20 70. Counts I through VII, *infra* state claims for violations of the FTC Act.

21 **VIII. VIOLATIONS OF THE HEALTH BREACH NOTIFICATION RULE**

22 71. In 2009, Congress directed the FTC, through Section 13407 of the Health
23 Information Technology (“HITECH”) Provisions of the American Recovery and Reinvestment
24 Act of 2009 (the “2009 Recovery Act”), to promulgate rules requiring that certain entities that
25 handle health information provide notice to individuals whose individually identifiable health
26 information has been breached.

27 72. The Federal Trade Commission promulgated the Health Breach Notification Rule
28 (“HBNR”), which implements Section 13407 of the 2009 Recovery Act, and which became final

1 on August 25, 2009. The HBNR requires that any “vendor of personal health records” and
2 related entities notify individuals when the security of their individually identifiable health
3 information has been breached.

4 73. Under Sections 318.3(a)(1)–(2) of the HBNR, “each vendor of personal health
5 records, following the discovery of a breach of security of unsecured PHR identifiable health
6 information that is in a personal health record maintained or offered by such vendor” shall notify
7 “each individual who is a citizen or resident of the United States whose unsecured PHR
8 identifiable health information was acquired by an unauthorized person as a result of such breach
9 of security,” and “the Federal Trade Commission.” 16 C.F.R. §§ 318.3 (a)(1)–(2).

10 74. Under Section 318.5(b) of the HBNR, vendors of personal health records must
11 also provide notice to “prominent media outlets serving a State or jurisdiction, following the
12 discovery of a breach of security, if the unsecured PHR identifiable health information of 500 or
13 more residents of such State or jurisdiction is, or is reasonably believed to have been, acquired
14 during such breach.” 16 C.F.R. § 318.5(b).

15 75. Section 318.2(j) defines “vendor of personal health records” as “an entity, other
16 than a HIPAA-covered entity or an entity to the extent that it engages in activities as a business
17 associate of a HIPAA-covered entity, that offers or maintains a personal health record.” 16
18 C.F.R. § 318.2(d).

19 76. Section 318.2(d) defines “personal health record” as “an electronic record of PHR
20 identifiable health information on an individual that can be drawn from multiple sources and that
21 is managed, shared, and controlled by or primarily for the individual.”

22 77. Section 318.2(e) defines “PHR identifiable health information” as “individually
23 identifiable health information,” as defined in section 1171(6) of the Social Security Act (42
24 U.S.C. § 1320d(6)), and, with respect to an individual, information: (1) that is provided by or on
25 behalf of the individual; and (2) that identifies the individual or with respect to which there is a
26 reasonable basis to believe that the information can be used to identify the individual.” 16
27 C.F.R. § 318.2(e).

1 78. Section 318.2(a) defines “breach of security” as “with respect to unsecured PHR
2 identifiable health information of an individual in a personal health record, acquisition of such
3 information without the authorization of the individual.” 16 C.F.R. § 318.2(a).

4 79. Count VIII *infra* states a claim for violating the HBNR.

5 **IX. CONSUMER INJURY**

6 80. GoodRx users are suffering, have suffered, and will continue to suffer, substantial
7 injury as a result of GoodRx’s violations of the FTC Act and the HBNR. GoodRx has also been
8 unjustly enriched as a result of these violations. GoodRx’s sharing of personal and health
9 information has revealed highly sensitive and private details about its users, most of whom suffer
10 from chronic health conditions. This has led to the unauthorized disclosure of facts about
11 individuals’ chronic physical or mental health conditions, medical treatments and treatment
12 choices, life expectancy, disability status, parental status, substance addiction, sexual and
13 reproductive health, and sexual orientation, as well as other information. Disclosure of this
14 information without authorization is likely to cause GoodRx users stigma, embarrassment, or
15 emotional distress, and may also affect their ability to obtain or retain employment, housing,
16 health insurance, disability insurance, or other services. Moreover, it has increased the risk of
17 further unauthorized disclosures.

18 81. GoodRx’s failure to notify users of its unauthorized disclosures, pursuant to the
19 HBNR, further harms users by depriving them of notice and an opportunity to mitigate the
20 unauthorized disclosures, and any past, present, or future harm that may occur.

21 **Count I**

22 **Privacy Misrepresentation:**

23 **Disclosure of Health Information to Third Parties**

24 82. Paragraphs 1-81 are incorporated as if set forth herein.

25 83. In numerous instances in connection with the advertising, distribution, or sale of
26 GoodRx’s prescription savings products and Telehealth Services, including through the means
27 described in Paragraphs 25–37, GoodRx has represented, directly or indirectly, expressly or by
28

1 implication, that GoodRx would not disclose personal health information to advertisers or other
2 third parties.

3 84. In truth and in fact, GoodRx did disclose users' personal health information to
4 Advertising Platforms and other third parties, such as Facebook, Google, and Criteo, and used
5 the information to target users with health-related advertisements on the Facebook and Instagram
6 platforms.

7 85. Therefore, GoodRx's representations as set forth in Paragraph 25–37 above are
8 false or misleading, and constitute deceptive acts or practices in violation of Section 5(a) of the
9 FTC Act, 15 U.S.C. § 45(a).

10 **Count II**

11 **Privacy Misrepresentation:**

12 **Disclosure of Personal Information to Third Parties**

13 86. Paragraphs 1-81 are incorporated as if set forth herein.

14 87. In numerous instances in connection with the advertising, distribution, or sale of
15 GoodRx's prescription savings products and Telehealth Services, including through the means
16 described in Paragraphs 25–37, GoodRx has represented, directly or indirectly, expressly or by
17 implication, that GoodRx would use or disclose users' personal information only for limited
18 purposes, such as in connection with providing GoodRx's services to users or contacting users
19 directly. GoodRx, through its subsidiary HeyDoctor, further represented that it would obtain
20 users' consent before disclosing personal information to third parties for purposes beyond
21 providing users access to its services.

22 88. In truth and in fact, GoodRx did disclose users' personal information, including
23 their first and last name, physical address, email address, phone number, gender, and other
24 personal identifiers, to Advertising Platforms for advertising, and used the information to
25 identify and target users with health-related advertisements on the Facebook and Instagram
26 platforms.

1 89. Therefore, GoodRx’s representations as set forth in Paragraphs 25–37 above are
2 false or misleading and constitute deceptive acts or practices in violation of Section 5(a) of the
3 FTC Act, 15 U.S.C. § 45(a).

4 **Count III**

5 **Privacy Misrepresentation:**

6 **Failure to Limit Third-Party Use of Health Information**

7 90. Paragraphs 1-81 are incorporated as if set forth herein.

8 91. In numerous instances in connection with the advertising, distribution, or sale of
9 GoodRx’s prescription savings products and Telehealth Services, including through the means
10 described in Paragraphs 28, 30, 32, and 35, GoodRx has represented, directly or indirectly,
11 expressly or by implication, that GoodRx would take steps to limit third-party use of users’
12 personal health information, including by ensuring that third parties complied with “federal
13 standards” regarding the treatment of health information and by taking steps to ensure that third
14 parties are subject to confidentiality obligations. GoodRx, through its subsidiary HeyDoctor,
15 further represented that it would implement “contractual and technical protections” to limit third-
16 party use of users’ information, beyond use of information for the provision of telehealth
17 services.

18 92. In truth and in fact, GoodRx failed to take steps to limit third-party use of users’
19 personal health information. Third parties that received personal health information, including
20 Facebook, Branch, Criteo, and Twilio, were permitted to, or did, make use of this information for
21 their own internal business purposes, including for their own research and development or ad
22 optimization purposes. GoodRx took insufficient action to limit what these third parties could do
23 with users’ personal health information, and either agreed to each company’s standard terms of
24 service, or entered into agreements that permitted these third parties to use GoodRx users’
25 personal health information for their own internal business purposes.

26 93. Therefore, GoodRx’s representations as set forth in Paragraphs 28, 30, 32, and 35
27 above are false or misleading and constitute deceptive acts or practices in violation of Section
28 5(a) of the FTC Act, 15 U.S.C. § 45(a).

1 **Count IV**

2 **Privacy Misrepresentation: Misrepresenting Compliance with the Digital Advertising**
3 **Alliance Principles**

4 94. Paragraphs 1-81 are incorporated as if set forth herein.

5 95. In numerous instances in connection with the advertising, distribution, or sale of
6 GoodRx's prescription savings products and Telehealth Services, including through the means
7 described in Paragraph 31, GoodRx has represented, directly or indirectly, expressly or by
8 implication, that GoodRx adheres to the Digital Advertising Alliance's principles, including its
9 Sensitive Data Principle.

10 96. In truth and in fact, GoodRx violated the Digital Advertising Alliance's Sensitive
11 Data Principle, when it used personal health information to target users with health-related
12 advertisements on the Facebook and Instagram platforms, without obtaining users' affirmative
13 express consent.

14 97. Therefore, GoodRx's representations as set forth in Paragraph 31 above are false
15 or misleading and constitute deceptive acts or practices in violation of Section 5(a) of the FTC
16 Act, 15 U.S.C. § 45(a).

17 **Count V**

18 **Privacy Misrepresentation: HIPAA Compliance**

19 98. Paragraphs 1-81 are incorporated as if set forth herein.

20 99. In numerous instances in connection with the advertising, distribution, or sale of
21 GoodRx's Telehealth Services, including through the means described in Paragraph 37, GoodRx
22 has represented, directly or indirectly, expressly or by implication, that GoodRx is a HIPAA-
23 covered entity, and that its privacy and information practices were in compliance with HIPAA's
24 requirements.

25 100. In truth and in fact, GoodRx is not a HIPAA-covered entity, and its privacy and
26 information practices did not comply with HIPAA's requirements.

1 108. GoodRx’s actions have caused or are likely to cause substantial injury to
2 consumers that consumers cannot reasonably avoid themselves and that is not outweighed by
3 countervailing benefits to consumers or competition.

4 109. Therefore, GoodRx’s acts or practices as set forth in Paragraphs 38–54 and 63
5 constitute unfair acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. §§ 45(a),
6 (n).

7 **Count VIII**

8 **Violation of the Health Breach Notification Rule**

9 **16 C.F.R. § 318**

10 110. Paragraphs 1-81 are incorporated as if set forth herein.

11 111. Defendant GoodRx is a “vendor of personal health records,” as defined by
12 Sections 318.2(d), 318.2(e), and 318.2 (j) of the HBNR. 16 C.F.R. §§ 318.2 (d),(e),(j).
13 Defendant GoodRx is an entity, other than a HIPAA-covered entity or an entity to the extent that
14 it engages in activities as a business associate of a HIPAA-covered entity, that maintains “an
15 electronic record of PHR identifiable health information on an individual that can be drawn from
16 multiple sources and that is managed, shared, and controlled by or primarily for the individual.”
17 GoodRx’s website and Mobile Apps are electronic records of PHR identifiable health
18 information that are capable of drawing information from multiple sources, including inputs
19 from users; Medication Purchase Data, pricing, and refill information from Pharmacy Benefit
20 Managers; pharmacy information from pharmacies; information about prescribed medications
21 from healthcare professionals (such as the name of a medication prescribed during a telehealth
22 session); and users’ geographic location information from a third-party vendor that approximates
23 geolocation based on IP address. The information is also managed, shared, or controlled by or
24 primarily for the user. GoodRx lets users keep track of their personal health information,
25 including to save, track, and receive alerts about their prescriptions, refills, pricing, and
26 medication purchase history.

27 112. In numerous instances, beginning in at least 2017, and through at least February
28 2020, GoodRx, as a “vendor of personal health records,” experienced “breaches of security” of

1 more than 500 consumers’ unsecured PHR identifiable health information through the disclosure
2 to, and subsequent acquisition of such information by, third parties such as Facebook and
3 Google, without the authorization of GoodRx users.

4 113. GoodRx has failed to provide the required notifications, as prescribed by the
5 HBNR, to (1) individuals whose unsecured PHR identifiable health information was acquired by
6 an unauthorized person, (2) to the Federal Trade Commission, or (3) to media outlets. 16 C.F.R.
7 §§ 318.3–6.

8 114. Pursuant to Section 13407(e) of the 2009 Recovery Act, and Section 318.7 of the
9 HBNR, a violation of the HBNR constitutes an unfair or deceptive act or practice in or affecting
10 commerce, in violation of Section 5(a) of the FTC Act. 42 U.S.C. § 17937(e); 16 CFR § 318.7;
11 15 U.S.C. §§ 45(a), 57a(d)(3).

12 115. Therefore, GoodRx’s acts or practices as set forth in Paragraphs 25–53 and 63 are
13 deceptive and unfair acts or practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

14 **X. PRAYER FOR RELIEF**

15 Wherefore, Plaintiff requests that the Court:

16 A. Enter a permanent injunction to prevent future violations of the FTC Act and the
17 HBNR by GoodRx;

18 B. Award Plaintiff civil penalties from GoodRx for each violation of the Rule
19 alleged in this Complaint;

20 C. Award Plaintiff other relief within the Court’s power to grant; and

21 D. Award any additional relief as the Court determines to be just and proper.
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1 Dated:February 1, 2023

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3 Respectfully submitted,

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