

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT

C.A. No.

COMMONWEALTH OF MASSACHUSETTS,

Plaintiff

v.

PUBLICIS HEALTH, LLC,

Defendant

COMPLAINT

I. INTRODUCTION

1. Dangerous opioid drugs continue to kill hundreds of people across Massachusetts every year. Since 2010, opioid-related overdoses have killed more than 15,000 of our loved ones, neighbors, colleagues, and friends. And it’s getting worse. Government statistics show that 2020 may have been the deadliest year yet. Every community in our Commonwealth suffers from the crisis of opioid use disorder, overdoses, and deaths. The marketing giant known as Publicis helped to create this opioid crisis.

2. Publicis Health, LLC (“Publicis”) is a global marketing company with 40 offices and 11 brands worldwide. Headquartered in New York, Publicis is owned by parent company Publicis Groupe S.A. (“Publicis Groupe”), a French marketing and public relations conglomerate with revenues over \$11 billion in 2020, including \$7.2 billion from its North American operations. Publicis controls agencies engaged in healthcare marketing throughout the United States, including in Massachusetts.

3. The Commonwealth brings this action against Publicis for the marketing schemes it sold that made the opioid crisis more devastating.

4. From 2010 until 2019, Publicis worked with opioid companies, particularly Purdue Pharma, to increase sales of dangerous opioids like OxyContin, including in Massachusetts, in ways that increased the risk to patients and the public of opioid use disorder, overdose, and death.

5. Publicis devised and deployed unfair and deceptive marketing campaigns designed to push doctors to prescribe opioids to more patients, in higher doses, and for longer periods of time. Publicis's campaigns targeted the most dangerous prescribers, including in Massachusetts, and deployed illegal advertisements embedded within patients' electronic medical records with messages designed to get doctors to convert patients to OxyContin, increase doses, and keep patients on OxyContin longer.

6. Publicis helped create a public nuisance of opioid use disorder, overdose, and death in Massachusetts. By design, Publicis's schemes worked to counter public health measures intended to reduce unnecessary opioid use, because more opioid use generated more profits for Publicis's opioid clients. Publicis's misconduct in designing, developing, and helping to implement these schemes caused patients in Massachusetts to suffer from opioid use disorder, overdose, and die.

7. Publicis's top opioid client, Purdue, filed for bankruptcy in September 2019 in the wake of thousands of lawsuits accusing the company of grievous misconduct for its role in causing the opioid epidemic. More than one hundred thousand people filed claims for personal injuries in Purdue's bankruptcy case. States and local governments filed claims for trillions of dollars in harm. In November 2020, members of the Sackler family who owned Purdue settled civil claims by the Department of Justice for hundreds of millions of dollars and Purdue pleaded guilty to felonies spanning a decade. The materials filed in connection with that plea and

settlement refer, again and again, to schemes that Publicis devised and helped implement. Earlier that year, electronic medical records company Practice Fusion admitted that it participated in a criminal conspiracy with Purdue to push opioid prescriptions and agreed to pay the government \$145 million. In February 2021, Purdue consultant McKinsey & Company settled investigations by state attorneys general related to its role in assisting Purdue and other opioid companies in creating the crisis. Now Publicis must be held accountable for its role in the opioid epidemic.

8. Unethical and unlawful behavior by marketing agencies like Publicis is a matter of public importance – even a matter of life and death. In addition to Purdue, Publicis sells its services to many more companies Americans rely on for powerful drugs.¹ Publicis plays a big role in deciding how drugs are marketed in America, including in Massachusetts.

9. The Attorney General asks the Court to enjoin Publicis from targeting the Commonwealth with its dangerous, unfair, and deceptive opioid marketing and make Publicis pay for the harm it inflicted in this state.

¹ Publicis Groupe, Full Year 2020 Results 14-15 (Feb. 3, 2021), https://www.publicisgroupe.com/sites/default/files/press-releases/2021-02/CP_Resultats_FY2020_GB.pdf (last visited May 5, 2021); Publicis Groupe, 2019 Full Year Results 18-19 (Feb. 6, 2020), https://www.publicisgroupe.com/sites/default/files/press-releases/2020-02/CP_Resultats_FY2019_GB.docx_.pdf (last visited May 5, 2021); Publicis Groupe, 2018 Full Year Results 21-22 (Feb. 6, 2019) <https://www.publicisgroupe.com/en/news/press-releases/publicis-groupe-2018-annual-results> (last visited May 5, 2021); ¶¶ 117-118 below.

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II. PARTIES

10. The plaintiff is the Commonwealth of Massachusetts, represented by Attorney General Maura Healey, who brings this action in the public interest.

11. Defendant Publicis Health, LLC (“Publicis”), a Delaware limited liability company f/k/a Publicis Healthcare Communications Group, is a healthcare marketing company with a principal place of business in New York City. Publicis promotes itself as much more than a mere advertising broker; instead, it is a team of “more than 3,000 healthcare professionals” who achieve “marketing and business transformation” with “world-class talent and game-changing capabilities.”²

12. Publicis regularly does and solicits business in Massachusetts, and derives substantial revenue from services rendered in Massachusetts, including, until recently, services related to the marketing of Purdue’s dangerous opioids: OxyContin, Butrans, and Hysingla. Publicis performs some of its healthcare marketing business, including for Purdue, under the registered assumed name Razorfish Health. Under the registered assumed name Verilogue, Inc. (“Verilogue”), Publicis performs healthcare market research and data analytics. Verilogue records patient-physician conversations in exam rooms and hospitals and provides analyses of these recorded conversations to other Publicis agencies for use in marketing campaigns for healthcare clients, including Purdue. Publicis performs media and public relations work for healthcare clients, including Purdue, through subsidiary Publicis Health Media, LLC (“Publicis Health Media”). Publicis knew that its marketing campaigns for Purdue would be utilized in Massachusetts to influence prescribers and patients.

² *About Publicis Health*, Publicis Health, <https://publicishealth.com/about-us> (last visited May 5, 2021).

13. During its investigation, the Attorney General's Office obtained documents from Publicis pursuant to civil investigative demands issued under G.L. c. 93A, § 6. The documents identified by the Bates prefix PUBLICIS- that are cited in this Complaint were produced to the Attorney General pursuant to that section, including the documents attached as Exhibits 1-38.³

The Publicis – Purdue Relationship

14. In April 2010, marketing agency Rosetta Marketing Services, LLC (“Rosetta”) entered into a Marketing Services Agreement with Purdue Pharma L.P. to analyze, design, and implement marketing tactics to maximize sales of Purdue opioids, including OxyContin.⁴ In May 2011, Publicis Groupe acquired Rosetta. In May 2015, as part of a Publicis Groupe restructuring, Saatchi & Saatchi Healthcare Communications, Inc., doing business as Razorfish Health, assumed Rosetta's role and its liabilities as Purdue's marketing agency for its dangerous opioids, including OxyContin.⁵ In December 2016, Saatchi & Saatchi Healthcare Communications merged into Publicis Healthcare Communications Group, which converted at that time to become Publicis Health, LLC.

15. In November 2015, upon the advice of Razorfish Health, Purdue executed a non-competitive Bid Exception form to contract with Verilogue to record and analyze conversations among pain patients and their doctors and nurses, to make Purdue's marketing more effective in getting doctors to prescribe Purdue's drugs.⁶

³ In Exhibits 23, 24, 26, 31, 35, and 37, the Attorney General's Office protected personal information by redacting personal cell phone numbers, security codes, and names in a paragraph that appears to pertain to employee hours and leave.

⁴ 2010-04-01, Marketing Services Agreement, PUBLICIS-0000281.

⁵ 2015-05-01, Amendment #5 to Marketing Services Agreement dated April 1, 2010, PUBLICIS-0000297.

⁶ 2015-11-23, Bid Exception for Purchase or Change Order for Good and Services Exceeding \$100,000, PUBLICIS-0000794.

16. In June 2016, Razorfish Health and Purdue amended their services agreement to bring in Publicis Health Media to work on Purdue’s marketing campaigns, including efforts to fight negative press about OxyContin and substance use disorder and to implement marketing inside prescribers’ electronic health records systems.⁷

17. Publicis and all of its subsidiary and trade name agencies are ultimately owned by Publicis Groupe, a global marketing and public relations company organized under French law with principal offices in Paris, France. Claiming to have “reinvented itself for the Connected Age by moving from [a] Holding Company to a platform,” Publicis Groupe advertises a “borderless, seamless service” to clients that is “free from silos,” with “unified P&Ls” and no operational barriers.⁸ Under its *Power of One* business model, Publicis Groupe serves as the “Connecting Company” for its agencies and provides each client with access to all of the agencies’ expertise, including by assigning a Client Leader to each major client.⁹

18. Publicis Groupe touts to customers, investors, and the public that it requires all of its agencies to follow Responsible Marketing Key Principles that are “applied to all forms of commercial communication delivered by Publicis Groupe agencies everywhere.” Publicis Groupe promises that it has the power to enforce the principles: “In case of non-respect of these principles or inadequate response, Publicis Groupe can take appropriate measures with immediate effect.” Publicis Groupe promises that “ALL marketing communication have to be legal, decent, honest, and truthful. Without any exceptions.”¹⁰

⁷ 2016-06-20, Amendment #6 to Marketing Services Agreement dated April 1, 2010, PUBLICIS-0000305.

⁸ *About Publicis Groupe*, Publicis Groupe, <https://www.publicisgroupe.com/en/the-groupe/about-publicis-groupe> (last visited May 1, 2021).

⁹ Publicis Groupe, 2019 Universal Registration Document at 5, 24, https://www.publicisgroupe.com/sites/default/files/investors-document/2020-05/PBS2019_URD_EN_180520.pdf (last visited May 1, 2021); *The Power of One*, Publicis Groupe, <https://www.publicisgroupe.com/en/services/the-power-of-one> (last visited April 29, 2021).

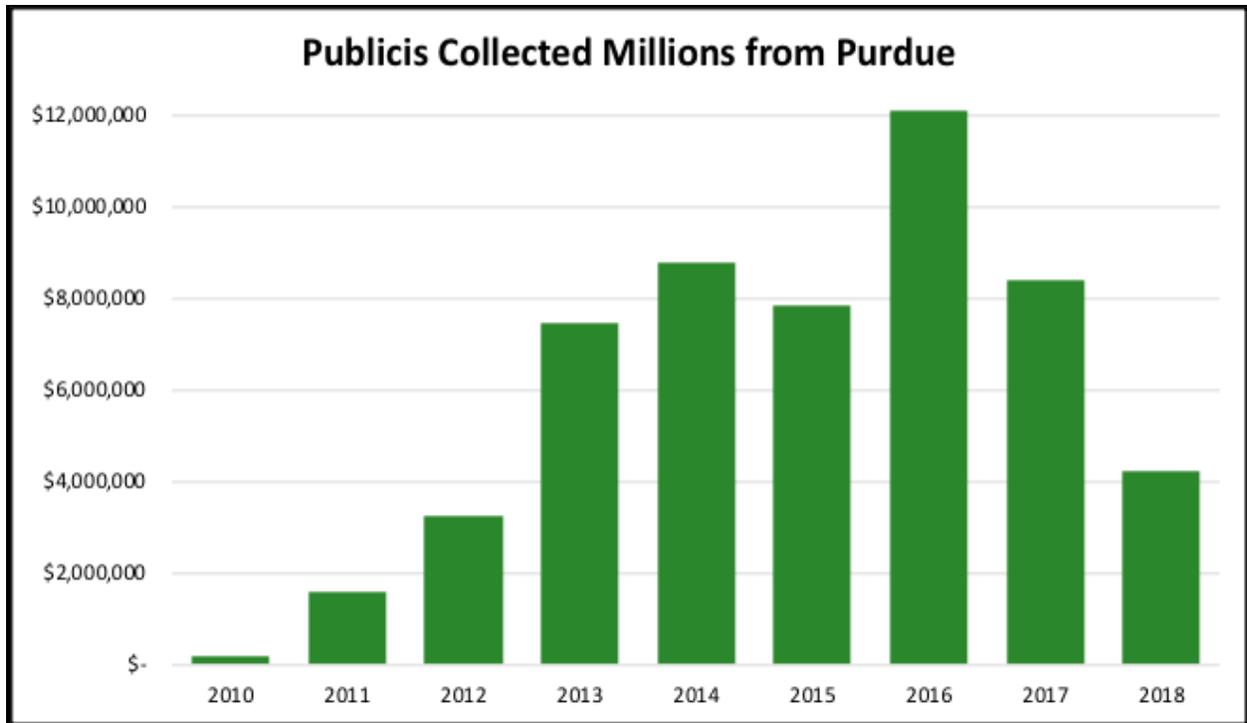
¹⁰ *Responsible Marketing and Communication – Key Principles*, Publicis Groupe, <https://publicisgroupe-csr-smart-data.com/assets/upload/en/Responsible%20Marketing.pdf> (last visited May 2, 2021).

19. Nevertheless, Publicis and its agencies conducted prolific campaigns of opioid marketing that were illegal, indecent, and dishonest, as described below.

20. From 2010 until 2019, Publicis – together with its agencies Rosetta, Razorfish Health, Publicis Health Media, and Verilogue – provided marketing schemes and analysis to Purdue that contributed to unprecedented levels of opioid use disorder, overdose, and death. As described above, the legal and registered assumed names of the Publicis entities performing the work changed over time, as Publicis Groupe acquired companies and caused them to merge and reorganize. But Publicis and its agencies engaged in a persistent course of unfair and deceptive marketing schemes that caused Massachusetts residents to suffer, overdose, and die.

21. Over a decade, Publicis collected more than \$50 million from Purdue for dozens of unfair and deceptive marketing schemes and for conspiring with Purdue and others to sell more opioids, in higher doses, for longer periods of time, to patients who didn't need them, including in Massachusetts. Publicis got so entwined with the OxyContin giant that it bragged that it “manage[d]” Purdue’s business “like it’s our own.”¹¹

¹¹ **Exhibit 1**, 2016-04-04 email from John Dwyer, PUBLICIS-0145649.



AGO graphic based on Publicis-Purdue Statements of Work and Invoices

III. JURISDICTION AND VENUE

22. The Attorney General is authorized to bring this action pursuant to G. L. c. 93A, § 4 and G.L. c. 12, § 10.

23. This Court has jurisdiction over Publicis pursuant to G.L. c. 223A, §§ 3(a), 3(c), and 3(d).

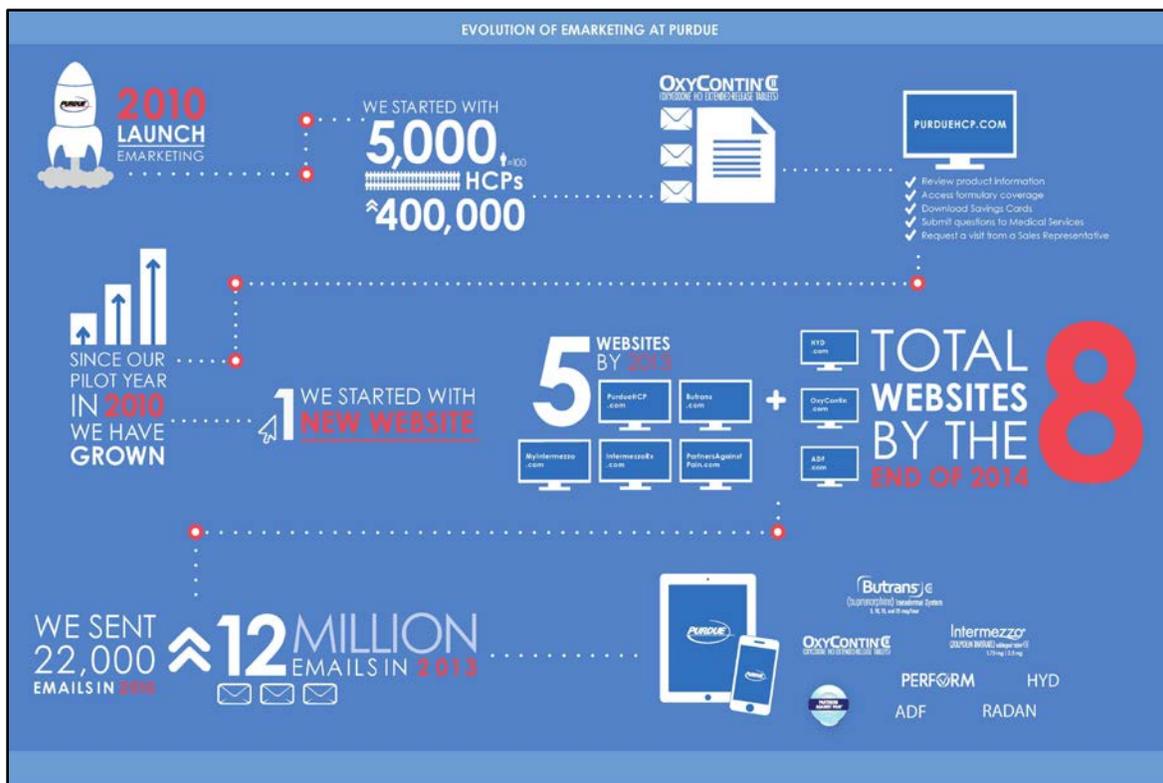
24. This Court has jurisdiction over the subject matter of this suit pursuant to G.L. c. 12, § 10, G.L. c. 93A, § 4, and G.L. c. 214, § 1.

25. Venue is proper in Suffolk County Superior Court pursuant to G.L. c. 93A, § 4, G.L. c. 214, § 5, and G.L. c. 223, § 5.

IV. PUBLICIS FOUGHT BACK AGAINST PUBLIC HEALTH EFFORTS TO STOP THE GROWING OPIOID EPIDEMIC BECAUSE THEY THREATENED OXYCONTIN SALES AND PURDUE’S BOTTOM LINE

a. Publicis partnered with Purdue to keep selling OxyContin and manage its reputation in the face of the growing opioid crisis

26. From 2010 until 2019, Purdue was Publicis’s top opioid client and Publicis was Purdue’s number one marketing partner.¹² Publicis provided marketing plans, public relations advice, and analyses that allowed Purdue to influence more potential opioid prescribers than ever before. As the below chart shows, within just four years of retaining Publicis, Purdue went from targeting 5,000 prescribers to 400,000, sending 22,000 emails to prescribers in 2010 and 12,000,000 in 2013. During the same period, Purdue went from having one website dedicated to targeting prescribers to eight.¹³



Source: Purdue InfoGraphic, PUBLICIS-0232442.

¹² 2015-12-11 email from Greg Reilly, PUBLICIS-0228040.

¹³ 2014-06-24 email from John Dwyer, PUBLICIS-0232440, attaching **Exhibit 2**, Purdue InfoGraphic, PUBLICIS-0232442.

27. By 2015, Publicis was marketing all three of Purdue’s dangerous opioid drugs: OxyContin (extended-release oxycodone), Butrans (extended-release buprenorphine), and Hysingla (extended-release hydrocodone). At all relevant times, Publicis knew that the opioid crisis was tied to prescription opioids like OxyContin and it knew that the crisis was getting worse. Publicis staff tracked and circulated articles and studies chronicling the mounting rates of opioid use disorder and overdose deaths across the country, including in Massachusetts.¹⁴ Even in the face of mounting evidence of harm, Publicis doubled down to keep doctors, including in Massachusetts, prescribing as much OxyContin to as many patients as possible.

28. As Publicis drafted OxyContin’s marketing strategy for 2015, amid growing awareness of the opioid crisis among prescribers, Publicis told Purdue’s marketing team to adopt what consultants call a “value proposition” for OxyContin—a reason why prescribers should consider the drug to be a safe and responsible choice for their patients, in spite of their appropriate caution and skepticism. Publicis wrote: “OxyContin is the only opioid that addresses the pain management needs of both patients (efficacy and dosing flexibility) and society (proven abuse deterrent properties).”¹⁵ Publicis knew that OxyContin’s crush-resistant formulation did nothing to deter abuse by the most common route—swallowing whole pills.¹⁶

i. Publicis knew OxyContin was dangerous

29. In May 2015, Publicis staff Christina Ceniza, Linda Ketchum-Pompili, and Bruce Rinderman had an extraordinary conversation about OxyContin and opioid use disorder.

¹⁴ See, e.g., 2015-08-12 email from Shannon Humeniuk, PUBLICIS-0137966; 2017-06-27 email from Shannon Humeniuk, PUBLICIS-0084940.

¹⁵ **Exhibit 3**, 2014-07-10 email from Christina Ceniza, PUBLICIS-0129307, attaching presentation, “OxyContin Tablets: 2015 Business Review,” PUBLICIS-0129308 at slide 5.

¹⁶ 2014-06-10 “OxyContin Brand Overview,” PUBLICIS-0099049 at slide 14; 2014-05-27 email from John Dwyer, PUBLICIS-0002563.

Ceniza, Ketchum-Pompili, and Rinderman were designing marketing messages about how the new crush-resistant formulation of OxyContin reduced opioid use disorder, and planned to use the results of the *National Survey on Drug Use and Health* on illicit drug use among persons aged 12 or older for years 2002-2013 in support of Publicis's claims. But Rinderman wrote Ceniza in alarm, attaching the *National Survey* data with his annotations in red. "Am I missing something or is there no story here?" he wrote, adding: "Please take a look at my markups (attached) and let's chat when you have a sec."¹⁷ The data showed that the number of persons using OxyContin illicitly continued to climb even after Purdue launched its crush-resistant reformulation in 2010. Ceniza replied to Rinderman:

Ugh – no you're right. I was trying to figure out if maybe the % of OXC to overall illicit use of pain killers went down, but it didn't. Maybe we can set up some time with Linda to talk through possible angles since she did a lot of leg work on lit search? Even if we can't find the data, we can craft the message and tell the Brand team what we WANT to say and see if their Medical Services group can come up with anything to support it?¹⁸

¹⁷ **Exhibit 4**, 2015-05-04 email chain from Bruce Rinderman, PUBLICIS-0161984, attaching **Exhibit 5**, "Table 7.1A – Types of Illicit Drug Use in Lifetime among Persons Aged 12 or Older: Numbers in Thousands, 2002-2013," PUBLICIS-0161987.

¹⁸ **Exhibit 6**, 2015-05-04 email from Christina Ceniza, PUBLICIS-0161669.

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Table 7.1A – Types of Illicit Drug Use in Lifetime among Persons Aged 12 or Older: Numbers in Thousands, 2002-2013

Drug	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
ILICIT DRUGS¹	108,255 ^b	110,205 ^b	110,057 ^b	112,085 ^b	111,747 ^b	114,509 ^b	117,815 ^b	119,259 ^b	119,933 ^b	121,078 ^b	124,808	127,458
Marijuana and Hashish	94,946 ^b	96,611 ^b	96,772 ^b	97,545 ^b	97,792 ^b	100,737 ^b	102,857 ^b	104,950 ^b	106,613 ^b	107,842 ^b	111,239 ^a	114,712
Cocaine	33,910 ^b	34,891 ^b	34,153 ^b	33,673 ^b	35,303 ^b	35,947	36,916	36,742	37,361	39,921	37,688	37,634
Crack	8,402	7,949 ^a	7,840 ^a	7,928 ^a	8,559	8,615	8,454	8,390	9,208	8,214	9,015	8,870
Heroin	3,668 ^b	3,744 ^b	3,145 ^b	3,534 ^b	3,788 ^b	3,806 ^b	3,795 ^b	3,680 ^b	4,144	4,162	4,565	4,812
Hallucinogens	34,314 ^b	34,363 ^b	34,333 ^b	33,728 ^b	35,290 ^b	34,278 ^b	36,064 ^b	37,404 ^a	37,544 ^b	36,362 ^b	37,908	39,736
LSD	24,516	24,424	23,398	22,433 ^b	23,345	22,720 ^b	23,604	23,714	23,375	23,000 ^a	23,735	24,770
PCP	7,418 ^a	7,107	6,762	6,603	6,633	6,179	6,657	6,271	6,255	6,103	6,552	6,462
Ecstasy	10,150 ^b	10,904 ^b	11,130 ^b	11,495 ^b	12,282 ^b	12,418 ^b	12,964 ^b	14,280 ^b	15,929 ^b	14,570 ^b	16,162 ^b	17,815
Inhalants	22,870 ^a	22,995 ^b	22,798 ^a	22,745 ^a	22,856 ^b	22,558 ^b	22,430 ^a	22,552 ^a	21,778	20,523	21,095	21,068
Nonmedical Use of Psychotherapeutics ^{2,3}	47,958 ^b	49,001 ^b	49,157 ^b	49,571 ^b	50,983 ^a	50,541 ^a	52,154	51,991	51,832	51,243	54,389	53,172
Pain Relievers	29,611 ^b	31,207 ^b	31,768 ^b	32,692 ^b	33,478 ^a	33,132 ^b	34,992	35,197	34,908	34,247	37,045	35,473
OxyContin [®]	1,924 ^b	2,832 ^b	3,072 ^b	3,481 ^b	4,116 ^b	4,379 ^b	4,857 ^b	5,863 ^b	6,160 ^b	5,917 ^b	6,579	6,973
Tranquilizers	19,267 ^a	20,220 ^a	19,852 ^a	21,041 ^a	21,318 ^a	20,253 ^a	21,551 ^a	21,848 ^a	22,187	21,655 ^a	23,639	23,493
Stimulants ³	23,496 ^a	23,004	22,297	20,983	22,495	21,669	21,285	22,033	21,739	20,379	21,498	21,656
Methamphetamine ³	15,365 ^b	15,139 ^b	14,512 ^b	12,663	14,226 ^b	13,081	12,634	12,908	13,060	11,928	12,259	12,257
Sedatives	9,960 ^b	9,510 ^b	9,891 ^b	8,982 ^b	8,842 ^b	8,401	8,920 ^b	8,633 ^a	7,653	7,515	7,939	7,480
ILICIT DRUGS OTHER THAN MARIJUANA¹	70,300 ^b	71,128 ^b	70,657 ^b	71,822 ^b	72,934 ^b	73,654 ^b	75,907	76,080	76,472	75,447 ^a	78,034	78,076

*Low precision; no estimate reported.
NOTE: Some 2006 to 2010 estimates may differ from previously published estimates due to updates (see Section B.3 in Appendix B of the Results from the 2013 National Survey on Drug Use and Health: National Findings).
^a Difference between estimate and 2013 estimate is statistically significant at the 0.05 level.
^b Difference between estimate and 2013 estimate is statistically significant at the 0.01 level.
¹ Illicit Drugs include marijuana/hashish, cocaine (including crack), heroin, hallucinogens, inhalants, or prescription-type psychotherapeutics used nonmedically. Illicit Drugs Other Than Marijuana include cocaine (including crack), heroin, hallucinogens, inhalants, or prescription-type psychotherapeutics used nonmedically. The estimates for Nonmedical Use of Psychotherapeutics, Stimulants, and Methamphetamine incorporated in these summary estimates do not include data from new methamphetamine items added in 2005 and 2006. See Section B.4.8 in Appendix B of the Results from the 2008 National Survey on Drug Use and Health: National Findings.
² Nonmedical use of prescription-type psychotherapeutics includes the nonmedical use of pain relievers, tranquilizers, stimulants, or sedatives and does not include over-the-counter drugs.
³ Estimates of Nonmedical Use of Psychotherapeutics, Stimulants, and Methamphetamine in the designated rows include data from new methamphetamine items added in 2005 and 2006 and are not comparable with estimates presented in NSDUH reports prior to the 2007 National Findings report. For the 2002 through 2005 survey years, a Bernoulli stochastic imputation procedure was used to generate adjusted estimates comparable with estimates for survey years 2006 and later. See Section B.4.8 in Appendix B of the Results from the 2008 National Survey on Drug Use and Health: National Findings.
Source: SAMHSA, Center for Behavioral Health Statistics and Quality, National Survey on Drug Use and Health, 2002-2013.

CONFIDENTIAL PUBLICIS-0161987

Source: “Table 7.1A – Types of Illicit Drug Use in Lifetime among Persons Aged 12 or Older: Numbers in Thousands, 2002-2013,” PUBLICIS-0161987.

30. Publicis understood that the reformulation did not reverse the trend of increasing opioid use disorder from OxyContin. Yet, Publicis continued to market OxyContin with schemes designed to overcome prescribers’ objections about the risk of abuse.¹⁹ In 2017, Publicis staff again discussed whether epidemiologic studies might show OxyContin led to “reduced abuse, misuse and/or diversion in the community.” A former partner wrote in to say: “As long as a drug is addictive, can be abused by swallowing higher doses, and ways to defeat the [abuse-deterrent formulation] are online,” no drug would ever meet the FDA standard – and especially not OxyContin.²⁰

¹⁹ See *infra* ¶¶ 32-33, 95. In September 2020, an FDA advisory committee overwhelmingly panned the idea that Purdue Pharma’s abuse-deterrent formulation (ADF) of OxyContin “meaningfully reduced” overall opioid use disorder, overdose, and death. Only 2 of the 28 members of the FDA’s Drug Safety and Risk Management and Anesthetic and Analgesic Drug Products advisory committees voted “yes” on whether the reformulated OxyContin lessened overall abuse since it was introduced in 2010. Twenty-six members of the panel also rejected the idea that the ADF version had a substantial impact on overdose rates. Amanda D’Ambrosio, *FDA Panel: Reformulated OxyContin Did Not Reduce Overall Abuse*, Medpage Today (Sept. 11, 2020), <https://www.medpagetoday.com/publichealthpolicy/opioids/88583>.

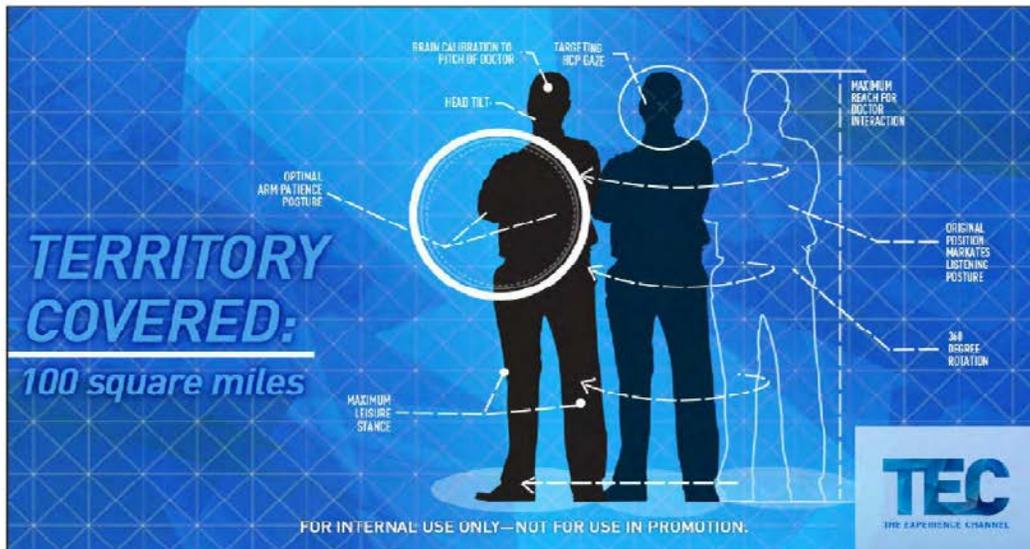
²⁰ 2017-06-15 email from Ted Whitby, PUBLICIS-00316611.

ii. Deceiving doctors

31. Publicis knew that some prescribers remained skeptical of the safety of OxyContin, despite Publicis's messaging campaigns. In 2016, together with Purdue's marketing team, Publicis scripted a training video for Purdue sales reps titled "The Handler." The video told Purdue sales reps to model themselves on the ideal sales rep, "Ken," who "addresses challenging objections, head on."²¹ In the mock-up for the video, Publicis set the stage for Ken's introduction: "Eye of the Tiger," would play as a full-body shot of Ken, arms folded across his chest, spins 360-degrees and text flies onto the screen noting that Ken covered a territory of "100 square miles" and his "favorite pre-detail coffee drink" was a triple-shot breve latte.²²

²¹ 2016-08-17 email from Christina Ceniza, PUBLICIS-0007492, attaching "'The Handler' – Objection Handling," PUBLICIS-0007493.

²² *Id.* at -494.



Frame 6:

Visuals/Music

High-tech, full-body shot of TBM with 360-degree rotations. Spotlight on sharply dressed TBM with arms crossed in front.

High-tech graphics fly onto screen:

- **Territory covered: 100 square miles**
- **Warm-up soundtrack: “Eye of the Tiger”**
- **Favorite pre-detail coffee drink: Triple-shot brevi latte**

Dialogue

[Experienced HCP Voiceover]

Take a look at Ken: He’s dressed for success. He exudes confidence. His attitude defines determination.

Source: “‘The Handler’ – Objection Handling,” PUBLICIS 0007493 at -494.

32. When doctors raised concerns about addiction, Publicis scripted Ken to push back, saying that “the potential for these risks should not prevent the proper management of pain in any given patient,” so that sales reps would learn to do this too. Publicis scripted Ken to downplay these risks to patients and assure doctors that they were manageable, again so sales

reps would train on this tactic and adopt it in their visits with prescribers.²³ Publicis scripted Ken to quote selectively from the Full Prescribing Information, omitting reference to “intensive monitoring” of patients at increased risk of opioid use disorder, a process that could cause them to hesitate to prescribe. Publicis and Purdue wanted Purdue sales reps across the country, including in Massachusetts, to use the same techniques as Ken to mislead doctors about the risks of OxyContin so they would prescribe more of it.

33. In addition to “Ken,” Publicis developed other “Objection Handler” content designed to defeat prescribers’ objections to prescribing OxyContin. In one content development workshop, Publicis devised that if a doctor objected that OxyContin “[d]oesn’t protect against swallowing too many pills,” sales reps should respond: “There is no drug that you can completely prevent abuse, misuse, diversion from. But you still have patients in pain, you need to treat them, so what’s next? Appropriate patients.”²⁴ These messages were misleading because they pinned the blame and stigma of opioid use disorder on patients rather than on the addictiveness of Purdue’s drugs, which could in fact be abused by swallowing pills and cause opioid use disorder even when taken as directed.

iii. Deceiving patients

34. Publicis knew that patients, as well as doctors, were hesitating to accept prescriptions for OxyContin because of growing awareness of the opioid epidemic and the role of prescription pills. To combat that trend, Publicis told Purdue to use physicians to quell patients’ concerns. For example, after analyzing recordings of conversations between doctors and patients, Verilogue told Purdue: “In materials to physicians, help them proactively address

²³ *Id.* at -496.

²⁴ 2016-02-23 email from Christina Ceniza, PUBLICIS-0094642, attaching 2016-02-17 notes, “OXC Objection Handler Workshop,” PUBLICIS-0094644 at -646.

patient pushback against opioids by instructing them to educate and reassure patients on the importance of balance in pain management and the physician’s role in it.”²⁵ Purdue could use direct “patient education” efforts too, Publicis said, to get patients comfortable with taking OxyContin, including in higher and higher doses.²⁶

iv. Deceiving the public

35. In October 2014, Publicis and Purdue met to revise Purdue’s “Outward Facing Strategy” and content for its corporate website. Publicis listed “responsible,” “productive” and “good corporate citizen,” as the top three takeaways they would want a visitor to the website to associate with Purdue. Publicis and Purdue strategized about developing a new corporate tagline—a short, pithy phrase that the website audience would associate with Purdue. Publicis noted that Purdue’s current corporate mantra, “profitable growth,” should not be deployed in any “outward facing” way and was “strictly for internal use.” Whatever Publicis and Purdue planned to tell the public, both knew that Purdue was set on selling more OxyContin.²⁷

36. Publicis knew that OxyContin was the source of 90% of Purdue’s revenue.²⁸ Publicis understood that the point of managing Purdue’s reputation, and making Purdue appear socially responsible, was to sell more OxyContin.

37. Two months later, to manage Purdue’s growing public image problem, Publicis partnered with Purdue to reach an even broader audience. Publicis scripted a 60-second television advertisement for Purdue CEO Mark Timney to deliver on the ways in which Purdue

²⁵ 2016-05-12 email from Shira Sinclair, PUBLICIS-0015568, attaching **Exhibit 7**, 2016-03-29 Verilogue presentation, “Purdue – Pain Dialogue Study,” PUBLICIS-0015571 at slide 31.

²⁶ **Exhibit 3**, 2014-07-10 email from Christina Ceniza, PUBLICIS-0129307, attaching presentation, “OxyContin Tablets: 2015 Business Review,” PUBLICIS-0129308 at slide 7.

²⁷ **Exhibit 8**, 2014-10-08 email from Kimberly Condino, PUBLICIS-0023681, attaching 2014-10-08 summary, “Contact Report from Discussion about Purdue’s Outward Facing Strategy Meeting,” PUBLICIS-0023683 at -683-84.

²⁸ **Exhibit 9**, 2015-04-02 email from Karl Tiedemann, PUBLICIS-0217120, attaching “Purdue Pharma Patient Retention Program – Portfolio of Products: Opportunity Brief,” PUBLICIS-0217121.

was “doing everything we can to reverse this public health problem.”²⁹ That statement was false. But Publicis knew that public opinion mattered for keeping sales of OxyContin and the resulting profits flowing for its client.

b. Publicis deployed opioid marketing strategies against public health efforts intended to save lives including the CDC Guideline for Prescribing Opioids for Chronic Pain

38. In March 2016, the Centers for Disease Control and Prevention issued a *Guideline for Prescribing Opioids for Chronic Pain* (“CDC Guidelines”), a set of guidelines to protect patients from the overprescribing of opioids and the associated risks of opioid use disorder. Publicis jumped on assessing the situation for Purdue. After a month of in-depth analysis, Publicis delivered a detailed report on the implications of the CDC Guidelines, declaring each of the CDC’s twelve guidelines a “threat” to Purdue’s opioid profits.³⁰

39. Over and over again, Publicis concluded that the safety guidelines the CDC determined would be good for patients would be bad for Publicis’s opioid marketing:

²⁹ **Exhibit 10**, 2014-12-09 email from Jonathan Gough, PUBLICIS-0044576, attaching “60 second TV spot script,” PUBLICIS-0044578.

³⁰ **Exhibit 11**, 2016-04-04 presentation, “Assessment of CDC Opioid Guideline and FDA IRO Label Requirements,” PUBLICIS-0015534 at slides 3-15.

CDC Guideline	Publicis Assessment of “Threat”
“Clinicians should consider opioid therapy only if expected benefits for both pain and function are anticipated to outweigh risks to the patient ...”	“May further contribute to the decline in opioid prescribing ...”
“Before starting and periodically during opioid therapy, clinicians should discuss with patients known risks and realistic benefits of opioid therapy and patient and clinician responsibilities for managing therapy”	“Hearing the risks may lead to patient pushback (or non-acceptance of opioids)”
“When starting opioid therapy for chronic pain, clinicians should prescribe immediate-release opioids instead of extended-release/long-acting (ER/LA) opioids”	“This is directly counter to the growth strategies of Butrans and OXC [OxyContin]”
“When opioids are started, clinicians should prescribe the lowest effective dosage.”	“May further erode prescribing of higher doses”
“prescribe no greater quantity than needed for the expected duration of pain severe enough to require opioids”	“Number of pills per Rx may decrease”
“considering offering naloxone when factors that increase risk for opioid overdose, such as history of overdose ... are present”	“Concomitant prescribing of naloxone adds to the negative stigma of opioids”
“Clinicians should review the patient’s history of controlled substance prescriptions using state prescription drug monitoring program”	“May decrease opioid prescriptions”
“Clinicians should avoid prescribing opioid pain medication and benzodiazepines concurrently whenever possible”	“HCPs may write fewer opioid prescriptions”

AGO chart based on Publicis presentation: “Assessment of CDC Opioid Guideline and FDA IRO Label Requirements,” PUBLICIS-0015534 at slides 3-15.

At the height of the epidemic, when hundreds of thousands had already been killed and the nation was trying to save people’s lives, Publicis worried about the “threat” that doctors might

prescribe fewer opioids, or lower doses, or fewer pills in a prescription, or that “hearing the risks” might lead patients to choose safer medicines instead.³¹

40. The biggest hit would be to high dose opioids, prescriptions at more than 90 morphine milligram equivalents (“MME”) per day. Publicis knew that Purdue specialized in dangerous, high dose prescriptions. Just over 20% of all extended-release opioids would be affected by the guidelines limiting high doses, but nearly *half* of all OxyContin prescriptions—more than 2 million prescriptions across the country—exceeded the dangerous 90 MME threshold. A patient prescribed the OxyContin 80 mg pill, every 12 hours per the indication for the drug, received 240 MME per day, nearly *three times* the CDC guideline. Publicis knew that the CDC guidelines would save lives but understood its marketing imperative to fight back against them.

41. Publicis called out the CDC’s guideline to prescribe the “lowest effective dosage” as a significant threat to Purdue’s high doses. Publicis knew that Purdue made the most money when doctors wrote prescriptions for higher, more dangerous doses of Purdue’s drugs. Publicis knew that the success of its 2013 refresh of Purdue’s *Individualize the Dose* campaign was measured in “shift in trend of declining mean dose of OxyContin.” Publicis knew that a guideline that told prescribers to proceed cautiously and “carefully justify” high dose OxyContin prescriptions would undermine Publicis’s efforts to get doctors to write more high dose OxyContin prescriptions.³²

42. In response, Publicis told Purdue to focus its messaging on advising doctors “to start low, go slow” and “reassess patient’s therapy at every step” and developed marketing

³¹ *Id.*

³² *Id.* at slide 7; 2013-09-03 Rosetta Creative Brief, PUBLICIS-0000094 at -098.

campaigns around these themes.³³ On the surface, these messages were about patient evaluation, but in fact, Publicis was measuring success by how much it could increase a patient's dose.³⁴

5. When opioids are started, clinicians should prescribe the **lowest effective dosage**. Clinicians should use caution when prescribing opioids at any dosage, should *carefully reassess evidence of individual benefits and risks when increasing dosage to ≥ 50 morphine milligram equivalents (MME)/day*, and should avoid increasing dosage to ≥ 90 MME/day or carefully justify a decision to titrate dosage to ≥ 90 MME/day.

1. Clarifying Questions

- Does this imply that HCPs should begin with a suboptimal dose? Will patients continue to experience pain?
- How well versed are PCPs on MMEs?

2. Threats

- May further erode prescribing of higher doses
- Patient perceptions of efficacy may decline if their doses are not adequate for their analgesic needs

3. Opportunities

- Educate PCPs around MMEs by providing MMEs for Purdue product doses where possible
- “Start low, go slow” mentality may fit with Butrans prescribing messages
- Reassess patient's therapy at every step - aligns with OXC previous campaign and promotional narrative

7



Source: 2016-04-04 presentation, “Assessment of CDC Opioid Guideline and FDA IRO Label Requirements,” PUBLICIS-0015534 at slide 7.

43. To combat the CDC's recommendation that practitioners start patients on less dangerous immediate-release opioids instead of extended-release opioids like OxyContin, Publicis created marketing pieces showing extended-release opioids as appropriate for opioid-naïve patients and told Purdue to “clarify [that] the definition of opioid-naïve” excluded patients who had taken *any* opioids in the last six months, even for as few as three days.³⁵

44. To counter the negative impact on sales from the CDC's call for prescribers to review a patient's drug history in state prescription drug monitoring programs (“PDMPs”),

³³ **Exhibit 11**, 2016-04-04 presentation, “Assessment of CDC Opioid Guideline and FDA IRO Label Requirements,” PUBLICIS-0015534 at slide 7.

³⁴ See 2014-10-09 Rosetta Creative Brief, PUBLICIS-0039804.

³⁵ OxyContin Summary Messages (2015), PUBLICIS-0009592; **Exhibit 11**, 2016-04-04 presentation, “Assessment of CDC Opioid Guideline and FDA IRO Label Requirements,” PUBLICIS-0015534 at slide 6.

Publicis urged Purdue to control the narrative and warn doctors through the OxyContin website and marketing emails that they needed to balance the information from the PDMPs with whether “[the] patient is legitimately in pain.”³⁶

45. In designing the OxyContin core visual aid and the conversion and titration guide – two marketing pieces Purdue sales reps delivered in-hand to doctors, including in Massachusetts – Publicis told Purdue to emphasize its “responsible approach to pain management,” to make prescribers “feel more comfortable prescribing OxyContin.” Publicis told Purdue that together, they could create “a perception of transparency” to “drive desired prescribing behavior,” by acknowledging the risks that the guidelines intended to reduce, but obscuring the connection between OxyContin and the crisis of opioid use disorder, overdose, and death.³⁷

46. Publicis’s direction for how to counter the CDC guidelines was worth millions of dollars to Purdue. Purdue studied prescription data to calculate how much profit it would lose if doctors followed the CDC’s advice. Purdue determined that the amount at stake in Massachusetts was \$23,964,122 — that was the extra revenue that Purdue was getting from the most dangerous doses of opioids, every year, in Massachusetts alone.³⁸

47. Despite the worsening opioid crisis, Publicis was so proud of its work marketing opioids for Purdue that it submitted its schemes to sell drugs and manage Purdue’s image for marketing industry awards. In 2016, the same year that the CDC issued its *Guideline for*

³⁶ **Exhibit 11**, 2016-04-04 presentation, “Assessment of CDC Opioid Guideline and FDA IRO Label Requirements,” PUBLICIS-0015534 at slide 12.

³⁷ 2016-10-20 email from John Williams, PUBLICIS-0006960, attaching “OXC 2016 increased SOW” summaries, **Exhibit 12**, PUBLICIS-0006961 and **Exhibit 13**, PUBLICIS-0006962.

³⁸ 2012-08-14 OxyContin ACAM Presentation, PWG00062610 at slide 28 (cited in First Amended Complaint ¶ 75 n.18, *Commonwealth v. Purdue Pharma L.P.*, No. 1884-cv-01808-BLS2 (Suffolk Super. Ct. Jan. 31, 2019), https://www.mass.gov/files/documents/2019/07/11/43_01%20First%20Amended%20Complaint%20filed%2001-31-2019_0.pdf).

Prescribing Opioids for Chronic Pain, Publicis submitted for Medical Marketing & Media awards an unbranded website designed to drive interest in OxyContin³⁹ and a Hysingla marketing scheme—that Purdue rejected—under the category “Most Daring Campaign.”⁴⁰

V. PUBLICIS DEVELOPED MEDIA CAMPAIGNS KEYED TO DOCTORS’ SEARCHES FOR DISEASE STATES FOR WHICH PURDUE’S OPIOIDS WERE NOT INDICATED

48. Throughout its work for Purdue, Publicis knew that none of Purdue’s opioids were approved to treat specific diseases and that statements suggesting otherwise were improper and misleading.⁴¹

49. Nonetheless, over the course of several years, Publicis developed and implemented “Conditions Campaigns” designed to drive prescribers conducting web searches about diseases for which Purdue opioids are not indicated – namely, low back pain, cancer pain, and osteoarthritis pain – to Purdue’s opioids.⁴²

50. Internal reports show the “Conditions Campaigns” were effective. In 2013, Publicis staff reported that “The Campaigns pertaining to Conditions were the most successful out of last year’s [Search Engine Marketing] strategy and resulted in 25,548 Clicks, driving the most visits to the PurdueHCP site.”⁴³

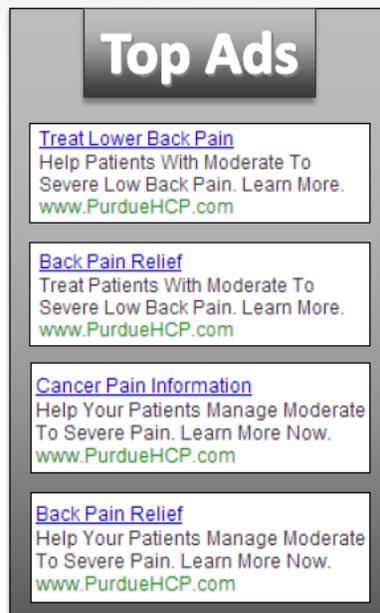
³⁹ TeamAgainstOpioidAbuse.com

⁴⁰ 2016-04-06 email from John Dwyer, PUBLICIS-0215552-3; 2016-04-11 email chain between John Dwyer and Helmut Osorio, PUBLICIS-0215846.

⁴¹ See 2014-07-15 email chain from John Dwyer, PUBLICIS-0003171; 2014-07-17 email chain from Lauren Doyon, PUBLICIS-0454832; 2014-07-14 email from Michael Caruso, PUBLICIS-0473520.

⁴² 2014-10-02 email from Michael Caruso, PUBLICIS-0173245, attaching “Purdue Pharma L.P. Review | October 2014 Non Branded Campaigns,” PUBLICIS-0173250.

⁴³ 2014-07-14 email from Michael Caruso, PUBLICIS-0473520, attaching presentation, “2013 Top Performers – Campaigns & Ads,” PUBLICIS-0473522 at -522.



Source: Presentation, “2013 Top Performers – Campaigns & Ads,” PUBLICIS-0473522.

51. In 2014, Publicis sought to build upon that success and proposed expanding the conditions in the OxyContin Conditions Campaigns to include multiple sclerosis, trigeminal neuralgia, and spinal cord injury, but the proposed expansion “raised some red flags” about the Conditions Campaigns generally.⁴⁴ An internal Publicis email explained “There are search words that are disease states OxyContin is not indicated for. And by having it in a document associated with OxyContin even for internal review can put [Purdue] in a liability risk.”⁴⁵

52. Ultimately, Publicis addressed the concern not by discontinuing the Conditions Campaign, but by modifying the resulting ads to refer cryptically to “That Condition,” as shown below.⁴⁶

⁴⁴ *Id.* at -520; 2014-07-15 email chain from John Dwyer, PUBLICIS-0003171 at -171-172.

⁴⁵ 2014-07-15 email chain from John Dwyer, PUBLICIS-0003171 at -171-172.

⁴⁶ 2014-08-29 email from Jessica Lau, PUBLICIS-0035844, attaching “PurdueHCP (OxyContin) Paid Search MRL Submission,” PUBLICIS-0035882 at -897-8; 2014-10-02 email from Michael Caruso, PUBLICIS-0173245, attaching “Purdue Pharma L.P. Review | October 2014 Non Branded Campaigns,” PUBLICIS-0173250 at -257.



Source: “PurdueHCP (OxyContin) Paid Search MRL Submission,” PUBLICIS-0035882 at -898.

VI. PUBLICIS DEvised SCHEMES TO KEEP PATIENTS ON HIGHER DOSES OF PURDUE’S OPIOIDS FOR LONGER PERIODS OF TIME

53. Some of Publicis’s earliest work for Purdue was the development of a series of marketing schemes to get patients to titrate up to higher doses of OxyContin and prolong patients’ “length of therapy” (“LoT”). These schemes were related; Publicis knew that higher doses increased length of therapy and that prolonging treatment led to tolerance which in turn led to even higher doses. And although Publicis knew that increasing titration and length of therapy increased patients’ risk of opioid use disorder, overdose, and death, it also knew these trends were good for Purdue’s bottom line.⁴⁷

54. In 2012, 2013, and 2014, Publicis and Purdue signed Statements of Work for Publicis to create or refresh campaigns centered on the “strategic drivers” of driving higher doses and greater length of therapy.⁴⁸

55. In August 2012, Publicis began work to develop a “rally cry,” among sales reps for higher doses—an internal campaign to get Purdue’s sales force excited “about the importance of proper titration.” Purdue and Publicis used the word “titration” to mean increasing the dose of a patient’s opioid prescription. Purdue paired the *rally cry* campaign with a related campaign “to reinforce [the] importance of titrating” directly with prescribers and retained Publicis to execute

⁴⁷ See 2014-10-09 Rosetta Creative Brief, PUBLICIS-0039804.

⁴⁸ **Exhibit 14**, 2012-09-04 Rosetta Creative Brief, PUBLICIS-0000835; 2013-04-23 Rosetta Creative Brief, PUBLICIS-0072149; **Exhibit 15**, 2014-06-11 Rosetta Creative Brief/Estimate, PUBLICIS-0027327; 2014-05-07 Rosetta Creative Brief, PUBLICIS-0041919; 2014-05-20 Rosetta Creative Brief, PUBLICIS-0046885; 2014-06-23 Rosetta Creative Brief/Estimate, PUBLICIS-0039067; 2014-08-01 Rosetta Creative Brief/Estimate, PUBLICIS-0091405; 2014-09-25 Rosetta Creative Brief, PUBLICIS-0092726; 2014-10-09 Rosetta Creative Brief, PUBLICIS-0039804.

on both. Publicis and Purdue intended the rally cries to be “easy to remember” and “motivating”—a call to action for sales reps to push prescribers to prescribe more and higher doses of Purdue’s drugs.⁴⁹

56. In April 2013, Publicis agreed to deploy an email campaign prompting prescribers to download OxyContin “Savings Cards” – an updated version of the OxyContin “starter coupons” that Purdue used to get thousands of patients on OxyContin in the 1990s.⁵⁰ Publicis charged Purdue about \$47,000 for the Savings Cards campaign, but the “return on investment” could pay for that easily because, once a patient took OxyContin for a few months, the patient was much less likely to stop. Publicis knew that Savings Cards were a top strategy for keeping patients on OxyContin for longer periods of time.⁵¹ Publicis and Purdue later estimated that the incremental impact of the OxyContin Savings Cards caused 67,000 more OxyContin prescriptions by April 2014.⁵²

57. In September 2013, in response to a significant decline in “mean patient dose,” Publicis began a “refresh” of Purdue’s *Individualize the Dose* campaign for OxyContin. Designed to drive prescribers to move patients to higher and higher doses more quickly, the visuals for the campaign featured patient faces paired with each OxyContin tablet, from the 10 mg up to the 80 mg pill. Publicis knew that prescribers were prescribing less OxyContin, particularly the most profitable high doses, because of growing awareness of the risk of opioid

⁴⁹ **Exhibit 14**, 2012-09-04 Rosetta Creative Brief, PUBLICIS-0000835 at -835-836.

⁵⁰ 2013-04-23 Rosetta Creative Brief, PUBLICIS-0072149 at -149-150; *see* U.S. General Accounting Office, OxyContin Abuse and Diversion and Efforts to Address the Problem, GAO-04-110, at 23-24 (Dec. 2003), <https://www.gao.gov/assets/gao-04-110.pdf> (describing OxyContin starter coupons); Mathias Dewatripont & Michel Goldman, *Free Drug Samples and the Opioid Crisis*, 379 *New Eng. J. Med.* 793, 793 (2018).

⁵¹ *See* 2014-10-09 Rosetta Creative Brief, PUBLICIS-0039804.

⁵² OxyContin 2015 Tactical Plan, PUBLICIS-0013221 at 4.

use disorder, overdose, and death. Publicis redesigned the *Individualize the Dose* campaign for Purdue to reverse that trend.⁵³

BACKGROUND	
ASSIGNMENT: What have we been tasked with? Evolve the current OxyContin creative campaign, “Individualize the Dose” to address an emerging market dynamic	MEASURABLE IMPACT: How are we defining success? Shift in trend of declining mean dose of OxyContin

Source: 2013-09-03 Rosetta Creative Brief, PUBLICIS-0000094 at -098.

58. At the end of 2013, Publicis summed up its work for Purdue in a Client Service Team review. Only 9 slides long, the presentation made clear that Publicis knew what it was undertaking. The first topic, “To know Purdue,” said: “In 2007, John Brownlee U.S. Attorney charged that ‘Purdue, under the leadership of its top executives, continued to push a fraudulent marketing campaign ... In the process scores died as a result of OxyContin abuse and an even greater number of people became addicted to OxyContin; a drug that Purdue led many to believe was safer, less abusable and less addictive than other pain medications on the market.’” The next slide explained that Purdue CEO John Stewart was “under pressure” and speculated he would be fired: “Stewart gone 1/1?” The source of the pressure was the Sacklers. Publicis wrote: “Board is always looming.” And the focus of that pressure was a relentless demand to sell more drugs. Publicis wrote: “PURDUE in 2014: Desperately seeking new growth.”⁵⁴

59. Publicis recognized that the Sacklers’ desperate desire for growing sales was an opportunity for Publicis to profit. So Publicis set out to help Purdue and the Sacklers sell more drugs. Month after month, Publicis signed new statements of work with Purdue, continuing its work to increase average dose and keep patients on opioids longer. Publicis knew the dangers of Purdue’s opioids but instead of emphasizing the risks of OxyContin, Publicis focused on

⁵³ 2013-09-03 Rosetta Creative Brief, PUBLICIS-0000094.

⁵⁴ **Exhibit 16**, 2013-12-12 presentation, “Purdue Pharma CST Review,” PUBLICIS-0024402 at slides 3-4, 6.

“humanizing the brand” to engage prescribers and get them to prescribe to more patients, including in Massachusetts, at higher doses, and for longer periods of time.⁵⁵

60. One way Publicis humanized Purdue and its opioids was through “patient vignettes.”⁵⁶ Publicis partnered with Purdue’s internal marketing team to create patient vignettes to get doctors to “more easily recognize patients” who could be started on OxyContin and titrated to higher doses.⁵⁷ In 2014, Publicis developed a new patient vignette, “James,” to “include a younger demographic.” James, age 40, had his dose increased from 10 mg to 15 mg to 20 mg, in a period of just three weeks.⁵⁸ Publicis facilitated the delivery of patient vignettes like James to prescribers, together with savings card information, to increase new prescriptions and keep patients on OxyContin for longer, using a special URL to track how many prescribers accessed the savings cards and measure the project’s effectiveness.⁵⁹

61. Publicis knew that Purdue’s drugs were dangerous. In June 2014, in a confidential, internal “Brand Overview” for OxyContin, Publicis noted Purdue’s “iconic notoriety” and that Purdue’s “[abuse-deterrent formulation] does not prevent abuse via swallowing,” the most common method of abuse. Yet, at the same time, Publicis was developing marketing campaigns for Purdue to drive more prescriptions, at higher doses, for longer periods of time. In the same “Brand Overview” presentation, Publicis staff struck language about utilizing the “lowest possible dose” because it wasn’t in line with Publicis’s goals of increasing titration and length of therapy.⁶⁰

⁵⁵ 2014-05-21 Rosetta Creative Brief, PUBLICIS-0010730.

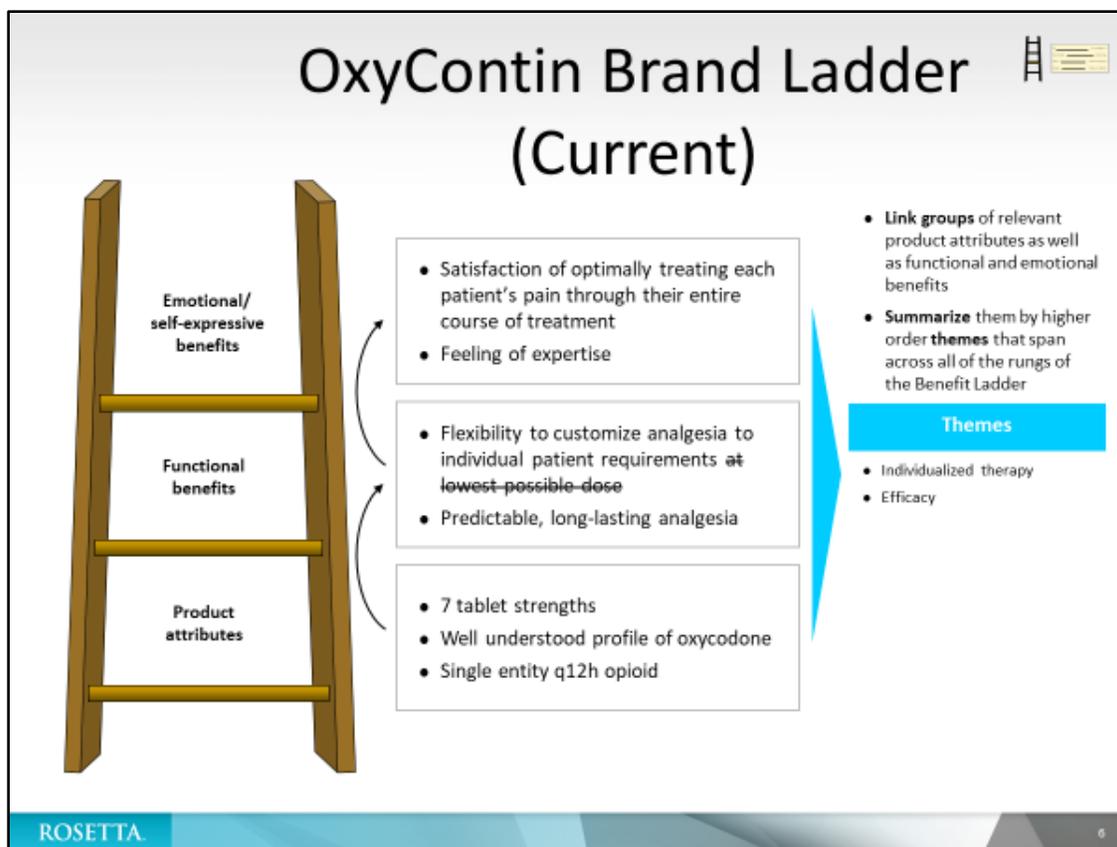
⁵⁶ *Id.* at -730.

⁵⁷ 2014-05-20 Rosetta Creative Brief, PUBLICIS-0046885 at -885 (“Per client feedback on 5/16, Agency to include an additional upward titration exercise”); **Exhibit 15**, 2014-06-11 Rosetta Creative Brief, PUBLICIS-0027327 at -327; 2015-02-13 presentation, “OxyContin 2015 Tactical Plan,” PUBLICIS-0008841 at-851.

⁵⁸ **Exhibit 15**, 2014-06-11 Rosetta Creative Brief, PUBLICIS-0027327 at -330.

⁵⁹ *Id.* at -328.

⁶⁰ 2014-06-10 presentation, “OxyContin Brand Overview,” PUBLICIS-0099049 at slides 6, 14.



Source: 2014-06-10 presentation, "OxyContin Brand Overview," PUBLICIS-0099049 at slide 6.

62. At Purdue's Oxycodone Brands Strategy Meeting in June 2014, Publicis staff were the only people invited from outside Purdue. They considered strategic initiatives, and how Purdue would capitalize on the top opportunities for oxycodone brands.⁶¹ Days after that meeting, Publicis account director John Dwyer was the only person outside Purdue copied on an email sent to more than 40 Purdue employees attaching Purdue's OxyContin Monthly Report, including the data that: "OxyContin's higher strengths, particularly the 40mg and 80mg, continue to decline."⁶² The next morning, Publicis wrote a plan for the "questions we want to answer" to

⁶¹ 2014-06-17 email from Ronald Cadet, PUBLICIS-0002055 (to John Dwyer, April Rodriguez, Jonathan Gough, and Theodore Whitby at Rosetta and Erric Byrd, Kristina Lynn, Amanda Stephens, and Robert Barmore of Purdue).

⁶² 2014-06-23 email from Robert Barmore, PUBLICIS-0023166 (to John Dwyer and others); 2014-06-24 email from John Dwyer, PUBLICIS-0023174 (forwarding OxyContin Monthly Report to a team of 16 people at Rosetta: Theodore Whitby, Linda Ketchum-Pompili, Jonathan Gough, Aleesha Patel, Ben Meck, Michele Ferrall, April Rodriguez, Christina Ceniza, Lauren Doyon, Pamela Fishman, Ari Wexler, Brian Wagner, Jason Crawford, Shelley Miller, James Weingartner, and Karl Tiedemann).

increase opioid prescriptions, including “What is the spectrum of drivers and barriers impacting physicians along the patient flow, particularly when it comes to adding/switching to” extended-release opioids, and “[w]hich physicians we can most easily effect/change?”⁶³ The next day, Publicis staff were again the only outside participants invited to a “Weekly Strategic Discussion” with Purdue. Publicis suggested they focus on titration, including: “Does a titration step lead to longer LoT [length of therapy on opioids]?” And: “Does 1 titration step correlate with a higher likelihood for a 2nd titration step? And a 2nd to a 3rd, and so on?”⁶⁴ Publicis wanted to know whether, if they could start a patient on a path of escalating doses of opioids, the patient would keep going to higher and higher doses and stay on the drugs longer and longer. At the end of that week, Publicis sent Purdue an OxyContin “Financial Tracker” listing Statements of Work that totaled 41,767 hours of work – enough to keep twenty people busy full-time for a year.⁶⁵

63. In late June 2014, Publicis account director John Dwyer had drinks with Peter Justason of Purdue. They discussed Purdue’s plans for “Agency consolidation,” and what Publicis “would need to do to claim” the single agency “spot.” Reporting back on their conversation, Dwyer assured Publicis executives that the team was “up to this challenge!” and could maintain the Purdue account exclusively.⁶⁶

64. In August 2014, Publicis staff met to discuss Purdue opportunities, including projects focused on “patient retention”—schemes to keep patients on OxyContin for longer periods of time. In that meeting, Publicis noted its overall strategy for maintaining its client: “Stress to Purdue that ‘we know you better than anyone[.]’ Looking at their business model, we

⁶³ 2014-06-24 email from John Dwyer, PUBLICIS-0002125.

⁶⁴ 2014-06-24 email from John Dwyer, PUBLICIS-0002140. Purdue staff assembled in the eighth-floor conference room, but the meeting was rescheduled. 2014-06-25 email from Ron Cadet, PUBLICIS-0002147.

⁶⁵ 2014-06-27 email from Jessica Lau, PUBLICIS-0023258, attaching spreadsheet, “OxyContin Financial Tracking,” PUBLICIS-0023259.

⁶⁶ 2014-06-30 email from John Dwyer, PUBLICIS-0124298.

can tease it apart and pick out the gold.” Following the meeting, Publicis circulated internal notes memorializing its proposed strategies. The notes revealed how Publicis monetized its work for Purdue, right down to the dollar value of a patient: “What is a patient worth?” Publicis queried whether it needed to disguise or “veil[]” “retention” efforts and instead label them as “patient engagement.” Publicis noted how in the past, “Purdue got reprimanded for going after patients too aggressively,” a reference to Purdue’s 2007 federal guilty plea for felony misbranding. The focus of the meeting was keeping patients on OxyContin to increase Purdue’s return on investment and figuring out what to call it, so that Purdue could get away with it.⁶⁷

The theme was clear: profits over people.

- Patient Retention – “How do we get a 2:1 return on this?”
 - What is a patient worth?
 - What is a monthly script worth?
 - What is the value of getting just *one* more refill?
 - Isn’t brand retention so much as overall portfolio retention
- In the beginning, Purdue got reprimanded for going after patients too aggressively
- Hence the focus is more company versus brand oriented; feels more altruistic
- Determine at the patient level what they need for their condition
- Does portfolio retention need to be veiled in a patient engagement program?

Source: 2014-08-07 Purdue Meeting Notes, PUBLICIS-0127877 at -877.

65. Publicis listed that the keys to success for achieving a 2:1 return on investment were to get the patient to stay on OxyContin for one more month or have the patient’s dose be increased one more time.⁶⁸

Success: 2 to 1 ROI → One month more RX or one more titration

Source: 2014-08-07 Purdue Meeting Notes, PUBLICIS-0127877 at -878.

⁶⁷ **Exhibit 18**, 2014-08-07 email from Taylor Bjornsen, PUBLICIS-0127876, attaching 2014-08-07 Purdue Meeting Notes, PUBLICIS-0127877.

⁶⁸ *Id.*

66. Each incremental month and each additional pill strength meant more money for Purdue and greater success for Publicis, but for patients, including thousands of Purdue patients in Massachusetts, each step up meant greater risk of opioid use disorder, overdose, and death.

67. One day later, Publicis requested data from Purdue, including a request for Purdue's "average value of a patient, by brand, and by dose." Publicis wanted to know if Purdue had calculated how many dollars a patient was worth to the company, to inform Publicis's work. Purdue sent data showing that the higher the dose of OxyContin, the longer the length of therapy and told Publicis that discussion regarding the value of each patient should occur "offline."⁶⁹

68. Publicis analyzed the data from Purdue and concluded that increasing each patient's average length of therapy by three days equaled the potential for \$50 million in additional profit in one year.⁷⁰

69. One week later, Publicis created an OxyContin Business Plan for the upcoming year to present to Saeed Motahari, Purdue's Chief Commercial Officer.⁷¹ Publicis noted how Purdue was facing increasing external pressure to reduce abuse, diversion, and overdose, but nevertheless wrote that one of the primary objectives was to "maintain positive growth" of new OxyContin prescriptions "to strengthen the lifeblood of the brand." Publicis knew patients taking Purdue's opioids faced risk of opioid use disorder, overdose, and death, yet it pushed onward with marketing campaigns to increase prescriptions of Purdue's drugs.⁷²

70. In October 2014, Publicis "updated" the "Conversion & Titration" email campaign it developed for Purdue in 2013. A "key objective" of the campaign refresh was to

⁶⁹ **Exhibit 19**, 2014-08-08 email from John Dwyer, PUBLICIS-0127947; **Exhibit 20**, 2014-08-15 email from Robert Barmore, PUBLICIS-0003052.

⁷⁰ **Exhibit 21**, 2014-08-19 email from Ben Meck, PUBLICIS-0003124.

⁷¹ Following his stint at Purdue, Motahari went on to become CEO of disgraced criminal opioid company Insys Therapeutics.

⁷² 2014-08-26 OxyContin Business Plan, PUBLICIS-0027384.

“drive appropriate titration and length of therapy with patients who have initiated therapy with OxyContin.” Publicis knew the longer patients were on opioids, the more money Purdue would make and the more likely the patient would become addicted, overdose, and die, yet it framed its email campaign as a means to “ensure patients are being adequately treated.”⁷³

71. Over the next several months, Publicis pitched Purdue on a number of marketing schemes, including its vision to redo Purdue’s patient-facing *Partners Against Pain* website. Opioid companies like Purdue used “unbranded” websites—sites that did not promote a drug by name—to promote prescribing of extended-release opioids as a class which would in turn increase prescriptions for Purdue’s branded drugs in that class, like OxyContin. Noting how the *Partners Against Pain* website was “[n]amed in lawsuits,” Publicis would “[s]tart from scratch.”⁷⁴ Alternately titled the Purdue “Patient Support Program,” the “Patient Retention Program,” and the “Patient Engagement Program,” Publicis pitched its ability to transform Purdue’s communications with patients based on its “expert” point of view on how to influence consumers to achieve Purdue’s “goals of extending patients’ length of therapy.”⁷⁵ Notwithstanding that Purdue had “promised” the FDA that it would not do “[direct-to-consumer] advertising for this dangerous and controversial category of medications (opioids, highly addictive, narcotic painkillers that are highly prone [sic] to abuse, misuse, diversion, addiction and accidental overdose),” Publicis viewed direct engagement with patients as a significant opportunity for its business:

⁷³ 2014-10-09 Rosetta Creative Brief, PUBLICIS-0009262.

⁷⁴ 2016-10-14 email from Jen Pares, PUBLICIS-0199316.

⁷⁵ 2014-07-31 email from Katie Meyler, PUBLICIS-0003280; 2014-08-19 email from Ben Meck, PUBLICIS-0128365, attaching presentation, “Engagement Opportunity,” PUBLICIS-0128367; 2014-08-20 email from Ben Meck, PUBLICIS-0128436, attaching presentation, “Providing Value to Patients and Purdue,” PUBLICIS-0128437; **Exhibit 9**, 2015-04-02 email from Karl Tiedemann, PUBLICIS-0217120, attaching “Purdue Pharma Patient Retention Program – Portfolio of Products: Opportunity Brief,” PUBLICIS-0217121; 2015-04-09 email from Rocco Albano, PUBLICIS-0217393.

After 4 ½ years of engagement only with professional promotional programs, this would finally expand our offerings into patient engagement programs and solidify Rosetta as the lead engagement partner that Purdue works with.... If we secure this initiative with Purdue, it will be a groundbreaking advance in Rosetta’s own patient engagement capabilities, and on an enormous scale, providing us with extensive fodder for case studies, pitches, bragging rights, etc, amongst others in the industry.⁷⁶

72. Although the Patient Retention Program Publicis pitched never came to fruition, Publicis kept pushing aggressive marketing strategies for Purdue’s branded drugs—OxyContin, Butrans, and Hysingla—in exchange for millions of dollars in annual contracts. When Publicis made these pitches to target doctors, pharmacists, and payers on Purdue’s behalf, it understood that the marketing tools it used to sell more opioids were “not about education, but persuasion.”⁷⁷

73. In July 2015, Purdue arranged for the Publicis marketing team to join Purdue sales reps on face-to-face visits with doctors to promote OxyContin. Purdue told Publicis to “be flexible with your travel locations” because it was concerned that the demand for ride-alongs from Publicis staff could overwhelm its sales reps in the Northeast.⁷⁸ Dwyer joined a rep on Long Island, New York.⁷⁹ Account director Christina Ceniza rode along with a rep in Delaware.⁸⁰ Razorfish Health director of strategic planning Jonathan Gough went into the field with a Buffalo-based rep. Dwyer, Ceniza, and Gough watched Purdue sales reps promote OxyContin to doctors and heard firsthand from doctors about why they would or would not prescribe OxyContin. Publicis used the information gathered from these sales rep ride-alongs to

⁷⁶ **Exhibit 9**, 2015-04-02 email from Karl Tiedemann, PUBLICIS-0217120, attaching “Purdue Pharma Patient Retention Program – Portfolio of Products: Opportunity Brief,” PUBLICIS-0217121 at -722.

⁷⁷ 2014-11-23 email from Karl Tiedemann, PUBLICIS-0001832 at -833.

⁷⁸ **Exhibit 22**, 2015-06-18 email from Marcel Oliveros, PUBLICIS-0009707.

⁷⁹ **Exhibit 23**, 2015-07-10 email from Steven Brownstone, PUBLICIS-0057291 at -291.

⁸⁰ **Exhibit 24**, 2015-07-02 email from Laura Biafore, PUBLICIS-0342276 at -279.

create marketing schemes to “better support” sales reps and get doctors to prescribe more OxyContin.⁸¹

74. In the summer of 2015, Publicis learned that the Sacklers, who Publicis had described as “looming” while Purdue “desperately” tried to sell more drugs, had made it onto Forbes’ list of the richest families in the world. Publicis staff circulated the news: “OxyContin sales put Purdue’s Sackler family on Forbes rich list.”⁸²

75. By 2016, Purdue recognized that Publicis’s marketing campaigns to increase doses and length of therapy had succeeded in increasing OxyContin sales. In March, Purdue told Publicis to “do ‘everything you did in 2015 on OxyContin, but now for Butrans.’” Publicis celebrated the no-bid award of the Butrans account. A group president congratulated staff, noting that “[t]he growth that we continue to see on this business is phenomenal.”⁸³ A few weeks later, John Dwyer summed it up to his team, emphasizing how Publicis provided strategy and engagement to Purdue:

And so ultimately, 3 weeks ago when the client told us that he was going to move the rest of the Butrans business over to Razorfish Health, the reason he said he was doing it was because he wanted us to replicate exactly everything we did last year on OxyContin. The creative campaign refresh, the vis aid that far outshone the Butrans and Hysingla ones which were done by another agency, the strategic planning we brought them for the new competitors who are coming, and the overall revitalization of a brand that needed a boost as it went into it’s [sic] 20th. He said, “We want more like that. We want you to do the exact same thing this year, but now with Butrans.”

Dwyer continued: “It’s an example of what we can do when we manage the client’s biz like it’s our own.”⁸⁴

⁸¹ **Exhibit 25**, 2015-07-10 email from Jonathan Gough, PUBLICIS-0090561 at -561.

⁸² 2015-07-06 email from Linda Ketchum-Pompili, PUBLICIS-0087308 at -308.

⁸³ 2016-03-17 email from Matt McNally and 2016-03-18 email from John Dwyer, PUBLICIS-0117509.

⁸⁴ **Exhibit 1**, 2016-04-04 email from John Dwyer, PUBLICIS-0145649.

76. Days later, when Purdue put the marketing campaign for Hysingla out for bid, Dwyer wrote:

[Purdue] are going under the premise that our work over the last year is our pitch [presentation]... [O]ur team (led by CC) has been kicking ass, we're so easy to work with, we don't just do what they ask for, we engage with them in discussions about what would be best and propose alternate ideas, and our experiential learning from working on the other brands for so long is incredibly apparent, and very much appreciated by them.⁸⁵

77. In May, Purdue awarded Publicis the Hysingla account too. Publicis executive vice president Karl Tiedemann was ecstatic about the news and the “amazing relationship” between the companies. Quoting a Purdue manager, he noted this was “the final piece and we now own Purdue.”⁸⁶

78. When Publicis applied the same titration messages that had been so successful with OxyContin to patient vignettes for Hysingla, Purdue “went gaga over them.”⁸⁷ Dwyer and Christina Ceniza (“CC”) discussed how Publicis took over the creation of the Hysingla patient vignettes from a competitor that was coming up short, and anticipated Purdue’s every need. Ceniza described a Purdue marketing staffer’s reaction to Publicis work: “you mean i can have my cake and eat it, too?! and we were like YES!!”⁸⁸

⁸⁵ 2016-04-06 email from John Dwyer, PUBLICIS-0215566.

⁸⁶ 2016-05-26 email from Karl Tiedemann, PUBLICIS-0222047.

⁸⁷ 2016-03-18 email from John Dwyer, PUBLICIS-0214428 at -428.

⁸⁸ 2016-03-18 email from John Dwyer, “Conversation with Christina Ceniza,” PUBLICIS-0450259.

Christina Ceniza [4:55 PM]:

OH MAN
when he saw the headline

John Dwyer [4:55 PM]:

damn

Christina Ceniza [4:55 PM]:

and every time he would say he wanted something else
we were like
oh just wait
we have more

John Dwyer [4:55 PM]:

awesome
"But wait, there's more..."

Christina Ceniza [4:55 PM]:

yes excatly
and at the end he was like
you mean i can have my cake and eat it, too?!
and we were like YES!!

John Dwyer [4:56 PM]:

great great job

Source: 2016-03-18 email from John Dwyer, "Conversation with Christina Ceniza," PUBLICIS-0450259.

79. Fulfilling its promise to Purdue, when drafting the Hysingla patient profile "Ernesto," Publicis staff made sure to "titrate him up" to a higher dose when converting him from an immediate-release drug to Hysingla.⁸⁹

80. Publicis understood that once patients were on Purdue's opioids, they were often on a one-way path to higher and higher doses. In a 2017 email exchange among Publicis employees concerning titration to higher doses, one employee stated: "We know discontinuation is usually an irrelevant subject matter (the persistent mindset is, once on an ERO, the only way is up)."⁹⁰

⁸⁹ 2016-03-16 email from Linda Ketchum-Pompili, PUBLICIS-0214428 at -430.

⁹⁰ **Exhibit 26**, 2017-11-08 email from Jamie Lutzky, PUBLICIS-0328376 at -377.

VII. PUBLICIS TARGETED PROLIFIC OPIOID PRESCRIBERS WITH ITS MARKETING CAMPAIGNS TO INCREASE SALES OF OXYCONTIN

81. When the Commonwealth sued Purdue in January 2019, it exposed how Purdue and members of the Sackler family worked with McKinsey & Company to devise a plan to increase OxyContin sales by “direct[ing] sales reps to the most prolific opioid prescribers, including those who write “25 times as many OxyContin scripts’ as less prolific prescribers.”⁹¹

82. In October 2020, members of the Sackler family entered a \$225 million civil settlement with the United States Department of Justice for knowingly causing the submission of false and fraudulent claims to federal health care benefit programs. As part of that resolution, DOJ found that:

from at least 2013 through 2018, Purdue developed an aggressive marketing program that focused on detailing over 100,000 doctors and nurse practitioners nationwide each year, including thousands of prescribers that the Named Sacklers knew or should have known were prescribing opioids that were not always for a medically accepted indication; were sometimes unsafe, ineffective, and medically unnecessary; and that were sometimes diverted for uses that lacked a legitimate medical purpose. By 2013, Purdue intensified its detailing of the very highest-volume prescribers, *i.e.*, those writing “25 times as many OxyContin scripts” as their similarly situated peers, because Purdue and the Named Sacklers knew that Purdue’s detailing was highly effective in causing these prescribers to write more prescriptions for Purdue’s opioids. This strategy, referred to as the “Evolve to Excellence” or “E2E” program, was approved by the Named Sacklers.⁹²

83. In February 2021, McKinsey settled allegations brought by 53 U.S. states and territories that McKinsey had violated states’ consumer protection laws, including by developing “Evolve 2 Excellence,” also known as “E2E”: a marketing plan to “focus sales calls on high-

⁹¹ 2013-08-08 Identifying Granular Growth Opportunities for OxyContin: Addendum to July 18th and August 5th Updates, PPLP004409892 (cited in First Amended Complaint ¶ 409 n.465, *Commonwealth v. Purdue Pharma L.P.*, No. 1884-cv-01808-BLS2 (Suffolk Super. Ct. Jan. 31, 2019), https://www.mass.gov/files/documents/2019/07/11/43_01%20First%20Amended%20Complaint%20filed%2001-31-2019_0.pdf).

⁹² Addendum A to Settlement Agreement, ¶¶ 4-5, *In re Purdue Pharma L.P.*, No. 19-23649-rdd (Bankr. S.D.N.Y. Nov. 18, 2020), ECF No. 1828-3, <https://www.justice.gov/opa/press-release/file/1329736/download>.

volume opioid prescribers, including those who wrote as many as 25 times as many OxyContin scripts as their lower volume counterparts.”⁹³

84. Publicis worked with Purdue on this same scheme to target prolific prescribers, including prescribers in Massachusetts. Publicis provided the “strategic backbone” of OxyContin marketing operations including E2E, even though it knew Purdue’s history, including its 2007 guilty plea for felony misbranding, and even as opioid overdose deaths in the Commonwealth and across the country soared.⁹⁴ Publicis advanced this scheme in a variety of ways, as set forth below.

a. Targeting prolific prescribers

85. Publicis, like Purdue and McKinsey, divided prescribers into deciles and ranked them by total number of OxyContin or extended-release opioid prescriptions written by each prescriber. Publicis used this ranking of prescribers in its OxyContin marketing plans to tell Purdue how the marketing team would focus its efforts to get doctors to prescribe more OxyContin, to more patients, in higher doses.⁹⁵ Publicis knew that focusing on the highest decile prescribers would maximize Purdue’s return on its marketing investment because high decile prescribers wrote many times the number of OxyContin scripts per month than their lower decile peers.

⁹³ Complaint ¶¶ 15-16, *Commonwealth v. McKinsey & Company, Inc. United States*, No. 21-0258H (Suffolk Super. Ct. Feb. 4, 2021).

⁹⁴ **Exhibit 16**, 2013-12-12 presentation, “Purdue Pharma CST Review,” PUBLICIS-0024402 at slides 3-4.

⁹⁵ 2014-07-30 email from Christina Ceniza, PUBLICIS-0048893, attaching 2014-03-19 “OxyContin Tablets: Annual Marketing Plan,” PUBLICIS-0048894 at -911.

■ **Prescribers**

In 2012: 209,066 healthcare providers (HCP) wrote at least one prescription for OxyContin. For the first 6 months of 2013: 165,137 HCPs wrote at least one prescription for OxyContin.

January – July 2013 Prescribers

TRx Decile	# Physicians	% Physicians	# Rx	Mean Rx / Physician/Month
10	358	0.2%	617,887	246.6
9	778	0.5%	617,624	113.4
8	1,300	0.8%	617,149	67.8
7	2,182	1.4%	617,248	40.4
6	3,613	2.3%	617,056	24.4
5	5,668	3.5%	617,075	15.6
4	8,668	5.4%	617,056	10.2
3	13,636	8.5%	617,048	6.5
2	24,399	15.2%	617,331	3.6
1	99,825	62.2%	620,667	0.9

Source: “2014 OxyContin Tablets: Annual Marketing Plan,” PUBLICIS-0048894 at -911.

86. In its 2014 OxyContin Marketing Plan, Publicis told Purdue to also target prescribers who were new to prescribing OxyContin, but were beginning to prescribe a lot of it, relative to their peers (high “new-to-brand” or “NBRx” prescribers). Publicis said Purdue should send sales reps to both high-decile prescribers and “High-decile NBRx HCPs” up to three times a month and convince them through Publicis marketing messages to convert their patients to OxyContin.⁹⁶

⁹⁶ 2014-07-30 email from Christina Ceniza, PUBLICIS-0048893, attaching 2014-03-19 “OxyContin Tablets: Annual Marketing Plan,” PUBLICIS-0048894 at -914; **Exhibit 17**, 2014-11-14 email from Jonathan Gough, PUBLICIS-0049335, attaching presentation, “OxyContin 2015 Tactical Planning,” PUBLICIS-0049336 at slide 3. Exhibit 17 contains slides 1-13 and omits slides 14-52.

87. In planning for 2015, one of Publicis’s “strategic pillars” was to help Purdue meet its aggressive budget for OxyContin sales by increasing “new patient starts.” Publicis would help Purdue “[d]rive new patient starts” by devising messages and strategies to get doctors to switch patients on immediate-release oxycodone to extended-release OxyContin.⁹⁷

88. For 2015, Publicis reported to Purdue that focusing on prolific prescribers could be a \$1.3 billion opportunity.⁹⁸



Prioritization of Physician Targets Summary

Market Segments	Medicare Part D Impacted	OxyContin Loyalists	No/low OxyContin	High IR Oxycodone
Description	HCPs who prescribe high volumes of branded EROs and have high but declining OxyContin prescriptions	HCPs who prescribe high volumes of branded EROs and have stable or increasing OxyContin prescriptions	HCPs who prescribe low volumes of EROs but high IR Oxycodone volumes, with many patients on around-the-clock IR Oxycodone	HCPs who prescribe high volumes of branded EROs but have no or low OxyContin prescriptions
# HCPs	8,082	8,465	18,548	1,859
# Brand/OxyContin Rxs	2,185,280 /1,422,532	2,428,492 /1,567,809	381,498/ 338,988	269,778/ 40,621
OxyContin \$ Value	\$636M	\$700M	\$152M	\$18M
IR oxycodone to OxyContin conversion rate increase/ opportunity	0.8%/ \$4.8MM	0.8%/ \$5.4MM	0.7%/ \$2.4MM	0.5%/ \$118K
Minimize Rx decline rate/ opportunity	5%/ \$17.8MM	-	-	1%/ \$3.5MM
Total Financial Opportunity	\$676.4MM	\$705.4MM	\$154.4MM	\$21.6MM
Priority	High	High	Medium	Low

Note: Insights to be confirmed via MedLive surveys week of 8/21; Average value of OxyContin Rx \$447.52; total financial opportunity for all segments is ~\$34M
1. Based on non-OxyContin branded Rx

Confidential - Draft Conceptual and Theoretical Proposal for Review

Source: “OxyContin 2015 Tactical Planning,” PUBLICIS-0049336 at slide 8.

89. That year, more than 1700 Massachusetts residents would die of an opioid-related overdose, including more than 100 Purdue patients.⁹⁹

⁹⁷ **Exhibit 17**, 2014-11-14 email from Jonathan Gough, PUBLICIS-0049335, attaching presentation, “OxyContin 2015 Tactical Planning,” PUBLICIS-0049336 at slide 2.

⁹⁸ *Id.* at slide 8.

⁹⁹ See *infra* ¶¶ 120, 135 (Massachusetts Department of Public Health data).

b. Influencing no-see prescribers

90. That same year, Publicis added prescribers in “no-see” hospitals—facilities like Massachusetts General Hospital and Brigham and Women’s Hospital which prohibited Purdue’s sales reps—to Purdue’s top priority group of prescribers for OxyContin marketing.¹⁰⁰ Publicis worked with Purdue to target prescribers at these large no-see hospitals and treatment groups, sometimes called “integrated delivery networks” or “IDNs” as an untapped marketing opportunity, noting: “We should target anyone on the IDN Lists that were provided, regardless of decile.”¹⁰¹ Publicis worked with Purdue on the design and implementation of call centers to dial prescribers at no-see IDNs and convince them to prescribe OxyContin, as well as other tactics to “reach targets that reps can’t.” Publicis developed a “web-based virtual presentation” for call center operators to use in “HCP education,” including the principles of the *Reassess At Every Step* campaign, designed to get prescribers to put patients on higher and higher doses of OxyContin, and savings cards, designed to keep patients on OxyContin for longer and longer periods of time.¹⁰² Publicis also continued to promote OxyContin by emails to prescribers in Massachusetts and to track exactly how prescribers at each hospital responded to the marketing. Publicis’s “OxyContin Media Program & Deep Dive Analyses” for the first quarter of 2014 reported that UMass Memorial Medical Center in central Massachusetts was in the three “Top Hospital Performers” in Publicis’s OxyContin email promotion program and was “extremely highly engaged.”¹⁰³

¹⁰⁰ 2014-11-12 email from Ben Meck, PUBLICIS-0001563.

¹⁰¹ 2014-06-13 email from Ben Meck, PUBLICIS-0124040.

¹⁰² 2014-06-16 email from Jason Crawford, PUBLICIS-0232000 at -201; 2014-06-16 email from Pamela Fishman, PUBLICIS-0455190, attaching 2014-06-12 “Rosetta Creative Brief / Estimate,” PUBLICIS-0455191.

¹⁰³ 2013-05-07 presentation, “OxyContin Media Program & Deep Dive Analyses | Key Q1 2014 Findings,” PUBLICIS-0013690 at slide 37.

91. The Top Hospital example is consistent with a pattern of Publicis tracking and targeting its opioid marketing actions at Massachusetts, at specific Massachusetts cities, at Massachusetts ZIP Codes, at Massachusetts hospitals, and even at individual Massachusetts nurses and doctors. In 2014, when Publicis reviewed “email priorities,” it noted: “Need counts this week for CT and MA emails” and then listed eleven Zip Codes in Springfield and Holyoke with the annotation: “New direction from Peter, kill zip direction, -- going to everyon[e] in CT/MA.”¹⁰⁴ In 2015, when Publicis shadowed Purdue sales reps promoting opioids to doctors and reported back with suggestions to Purdue, Publicis recommended that Purdue develop a new handout for doctors “[i]dentifying what % of Massachusetts population is dual eligible” for two insurance programs.¹⁰⁵ In 2016, when Publicis and Purdue targeted nurse practitioners and physician assistants, Publicis was responsible for inviting the targets to a workshop in Boston.¹⁰⁶ When Publicis summarized its “OxyContin Email Program,” Publicis used Massachusetts as the example of its targeting practices, stating that it sent messages both to an overall list of “OxyContin Targets” and also to “Smaller Sublists (*e.g., Massachusetts HCPs*).”¹⁰⁷ Publicis targeted Massachusetts intentionally. Indeed, Publicis’s ability to direct marketing to intended targets – along with its ability to drive up opioid prescriptions – is part of what Publicis sold for tens of millions of dollars to Purdue.

¹⁰⁴ 2014-08-21 email from Brian Wagner, PUBLICIS-0020291, attaching spreadsheet, “RM Status- Purdue Email Priorities as of 8-21-14,” PUBLICIS-0020292 at tab “Complete.”

¹⁰⁵ 2015-07-29 email from Jessica Lau, PUBLICIS-0022262, attaching 2015-07-21 presentation, “OxyContin Rep Rides – Key Insights,” PUBLICIS-0022263 at slide 6.

¹⁰⁶ 2016-11-10 email from Christina Gonsalves, PUBLICIS-0006798, attaching spreadsheet, “Purdue NP PA Status Report Updated 11/10/2016,” PUBLICIS-0006799.

¹⁰⁷ 2014-08-08 email from Katie Meyler, PUBLICIS-0027323, attaching presentation, “OxyContin Click Analysis: Email Analysis,” PUBLICIS-0027324 at slide 5 (*italics in original*).

c. Targeting nurse practitioners and physician assistants

92. Publicis understood that nurse practitioners and physician assistants (“NPs” and “PAs,” respectively) played an important role in continuing to drive more and higher dose OxyContin scripts. When drafting Purdue’s “Considerations for Tactical Planning” for 2015, Publicis emphasized that “[g]rowing prescribing volume and share from [the] NP and PA audience” was an important marketing factor due to “dose titration opportunities.”¹⁰⁸ Publicis knew that NPs and PAs together wrote an average of 90,627 OxyContin scripts per month in 2015—more than one million scripts for the year.¹⁰⁹ John Dwyer pushed Publicis staff to “create[] attitudinal and behavioral profiles” of NPs and PAs, including using analysis of recorded prescriber-patient interactions from Verilogue, to target NPs and PAs to prescribe more OxyContin.¹¹⁰ Razorfish Health and Publicis Health Media developed a “Tactical Media Plan” to reach NPs and PAs through strategic placement of messages designed to “Own the Practitioner” and “ensure successful trial & uptake” to the tune of 14,500 additional prescriptions for Purdue’s drugs within the first 12 months of deployment.¹¹¹

93. In 2017, NPs and PAs continued to be a focus of Publicis’s marketing plan for Purdue because Publicis knew that, even as OxyContin scripts were declining overall, “NP/PAs are a growing provider segment and help offset some of the decline from PCPs.”¹¹² Publicis pushed Purdue to contract with its Publicis Touchpoint Solutions agency to deploy clinical nurse educators “trained on the Purdue sales force platform for integrated call planning and tracking”

¹⁰⁸ **Exhibit 17**, 2014-11-14 email from Jonathan Gough, PUBLICIS-0049335, attaching presentation, “OxyContin 2015 Tactical Planning,” PUBLICIS-0049336 at slide 9.

¹⁰⁹ 2016-09-27 email from Christina Ceniza, PUBLICIS-0210474, attaching presentation, “OxyContin 2017 Strategic Plan,” PUBLICIS-0210475 at slide 8.

¹¹⁰ 2016-03-30 email from John Dwyer, PUBLICIS-0440393.

¹¹¹ Presentation, “2016 NP/PA Program Tactical Media Plan,” PUBLICIS-0109673 at slides 3, 15.

¹¹² 2016-09-27 email from Christina Ceniza, PUBLICIS-0210474, attaching presentation, “OxyContin 2017 Strategic Plan,” PUBLICIS-0210475 at slide 8.

to target NPs and PAs on opioid prescribing, “help [them] understand and implement” treatment plans, and “overcome behavioral obstacles that may interfere with patient adherence.” Publicis knew that patient adherence was about keeping patients on OxyContin for longer and longer.¹¹³

94. Publicis relied on its strategy to target prolific prescribers, including NPs and PAs, to boost sales of OxyContin for years. In 2016, although prescribers in deciles 7-10 accounted for only 6% of all OxyContin prescribers, Publicis understood that these prescribers wrote 65% of all OxyContin prescriptions.¹¹⁴ In 2017, Publicis continued targeting “high-decile HCPs” as its number 1 “strategic imperative” for OxyContin.¹¹⁵

95. As awareness of the opioid epidemic grew, Publicis refined its targeting to focus on prolific prescribers it believed would continue to prescribe OxyContin. Publicis categorized these prescribers as “motivated believers” and “brand loyalists.” According to Publicis’s analysis, “motivated believers” were prolific prescribers who were “convinced that opioid medication is essential to the treatment of the chronic pain patient” and recognized OxyContin “as the leading FDA-recognized Opioid with Abuse Deterrent Properties.”¹¹⁶ “Brand loyalists” were prolific prescribers who would stick with OxyContin despite the climate of growing concern over its abuse potential.¹¹⁷ Publicis targeted “motivated believers” and “brand loyalists” with marketing materials to validate these prescribers’ prescribing behaviors, overcome concerns

¹¹³ **Exhibit 27**, 2016-11-11 email from Jonathan Gough, PUBLICIS-0011898, attaching presentation, “Pre-Read: OxyContin Tactical Brainstorm,” PUBLICIS-0011899 at slides 19-20.

¹¹⁴ 2016-09-27 email from Christina Ceniza, PUBLICIS-0210474, attaching presentation, “OxyContin 2017 Strategic Plan,” PUBLICIS-0210475 at slide 12.

¹¹⁵ **Exhibit 27**, 2016-11-11 email from Jonathan Gough, PUBLICIS-0011898, attaching presentation, “Pre-Read: OxyContin Tactical Brainstorm,” PUBLICIS-0011899 at slides 10, 12-13.

¹¹⁶ **Exhibit 28**, 2017-10-11 email from John Dwyer, PUBLICIS-0088124, attaching 2017-09 presentation, “OxyContin 2018: Tactical Plan,” PUBLICIS-0088126 at slide 4; 2017-03-30 email from Lianne Poole, PUBLICIS-0010877, attaching memorandum, “OxyContin Agency Day – 3/28,” PUBLICIS-0010878 at -878. Exhibit 28 contains slides 1-17 and omits slides 18-78.

¹¹⁷ **Exhibit 27**, 2016-11-11 email from Jonathan Gough, PUBLICIS-0011898, attaching presentation, “Pre-Read: OxyContin Tactical Brainstorm,” PUBLICIS-0011899 at slide 9 (“For brand loyalists (decile 7-10 HCPs) treating chronic pain patients” position OxyContin as the “[t]rusted ERO with 20 years of clinical experience”).

about the abuse potential of Purdue's drugs, and create a cohort of very profitable prescribers who would stick with Purdue despite the increasing pressures and concerns over the growing opioid epidemic. By sticking with Purdue, Publicis knew and intended that these prescribers would prescribe OxyContin to patients who didn't need it, including patients in Massachusetts.

VIII. PUBLICIS DESIGNED MESSAGING FOR ELECTRONIC HEALTH RECORDS SYSTEMS TO GET DOCTORS TO PRESCRIBE MORE OF PURDUE'S OPIOIDS IN HIGHER DOSES FOR LONGER PERIODS OF TIME

96. In January 2020, electronic health record provider Practice Fusion paid \$145 million and entered into a Deferred Prosecution Agreement with the United States Department of Justice for its role in creating clinical decision support alerts ("CDS alerts") designed to increase prescriptions of extended-release opioids, most notably Purdue's.¹¹⁸ The CDS alerts worked by prompting doctors using Practice Fusion's electronic health record system to take certain clinical actions, perform certain tests or assessments, and complete certain documentation, given the particular personal health information and circumstances of the patient before the provider at that moment.¹¹⁹

97. Nine months later, Purdue pleaded guilty to conspiracy to violate the federal Anti-Kickback Statute by paying Practice Fusion to create these CDS alerts with the intent to drive prescriptions of Purdue's dangerous opioids.¹²⁰ The lead prosecutor in the Practice Fusion case called its conduct "abhorrent," noting that "[t]he companies illegally conspired to allow the drug company to have its thumb on the scale at precisely the moment a doctor was making incredibly

¹¹⁸ Deferred Prosecution Agreement at 1, 4-5, *United States v. Practice Fusion, Inc.*, No. 2:20-CR-11 (D. Vt. Jan. 27, 2020), ECF No. 2, <https://www.justice.gov/usao-vt/press-release/file/1239586/download>; Information at 1, *United States v. Practice Fusion, Inc.*, No. 2:20-CR-11 (D. Vt. Jan. 27, 2020), ECF No. 2-3, <https://www.justice.gov/usao-vt/press-release/file/1239601/download>.

¹¹⁹ Statement of Facts at 3, *United States v. Practice Fusion, Inc.*, no. 2:20-CR-11 (D. Vt. Jan 27, 2020), ECF No. 2-4, <https://www.justice.gov/usao-vt/press-release/file/1239606/download>.

¹²⁰ U.S. Dep't of Justice, Plea Agreement with Purdue Pharma L.P. at 17-18 (Oct. 20, 2020), <https://www.justice.gov/opa/press-release/file/1329576/download>.

intimate, personal, and important decisions about a patient’s medical care, including the need for pain medication and prescription amounts.”¹²¹

98. Like Practice Fusion and Purdue, Publicis knew about and contributed to Purdue’s electronic health record (“EHR”, alternatively, “electronic medical record,” or “EMR”) schemes, including the use of CDS alerts to get doctors to write more prescriptions for Purdue opioids.

99. Beginning in 2012 and continuing through 2018, Publicis developed content for Purdue’s EHR schemes, including an extensive set of banner advertisements delivered electronically to providers throughout the EHR interface. Publicis agencies Rosetta, Publicis Health Media, and Razorfish Health wrote the messages and developed layouts and schematics for EHR system prompts at the “point of prescribing” and for banner advertisements throughout the system. Publicis presented its ideas to the Purdue marketing department and worked with Purdue on “revisions and refinements” to the schemes for presentation to Purdue’s “Executive board.”¹²²

a. Point-of-care diagnosis targeting

100. In August 2012, Publicis told Purdue about its plan to use Practice Fusion’s EHR system to place banner ads in front of prescribers who were meeting with patients with certain health conditions—what Publicis called “ICD-9 targeting” or sometimes “condition targeting” or

¹²¹ *Electronic Health Records Vendor to Pay \$145 Million to Resolve Criminal and Civil Investigations*, U.S. Dep’t of Justice (Jan. 27, 2020), <https://www.justice.gov/opa/pr/electronic-health-records-vendor-pay-145-million-resolve-criminal-and-civil-investigations-0>.

¹²² 2015-01-01 Statement of Work, PUBLICIS-0000260 at -265 (“Tactics may include but are not limited to iPad apps, EMR vendor capability review.... After brand’s 2016 Objectives and Strategies are established...., the creative team may work on recommendations for tactics to fulfill them. Includes brainstorming, developing ideas to present and discuss with Marketing, developing presentation of tactical concepts with examples of copy and schematics, revisions and refinements to Marketing management, revisions and refinements for presentations to Executive board. Deliverables may include 2015 tactical plan aligned to strategies, 2016 tactical recommendations and/or SOWs and third party vendor review/POVs.”); *see also* 2016-01-01 Statement of Work, PUBLICIS-0125538 at -542.

“diagnosis targeting.”¹²³ The Publicis and Purdue marketing teams would set the banner ads to appear whenever the system detected pain-related content in a patient’s chart, for example, when the provider entered information about a patient’s pain symptoms.¹²⁴

101. In April 2013, Publicis, Purdue, and Practice Fusion launched this plan and Publicis paid five pass-through invoices for Practice Fusion’s work: three for OxyContin banner ads and two for Butrans. After a few months, Purdue put the project on hold, citing concerns about the propriety of embedding opioid advertisements on patient-specific pages, for example, adjacent to a patient’s diagnosis or treatment history.¹²⁵

102. But Publicis kept urging Purdue to use EHR advertising to promote OxyContin.

103. In December 2013, Publicis again pushed Purdue to partner with Practice Fusion, stating: “Practice Fusion is the only partner that offers Banners within workflow prior to making a prescribing decision. Helps to increase awareness – and ultimately sales.”¹²⁶

104. In March 2014, Publicis again pitched Purdue on the value of EHR alerts for its drugs. In flow charts illustrating the stages at which tailored messages would capture a doctor’s attention and persuade the doctor to prescribe a Purdue opioid, Publicis showed how EHR-based “continual brand reminders” and “in-depth messaging tactics” served to increase prescribers’ preference for OxyContin, specifically for certain disease states or diagnoses. Publicis estimated that these alerts would message doctors as they were in their patient workflow with ads

¹²³ Spreadsheet, 2013 Purdue IO Status, PUBLICIS-0458509.

¹²⁴ Summary, “OxyContin Banner Ad Campaign – Practice Fusion,” PUBLICIS-0039968.

¹²⁵ Spreadsheet, 2013 Purdue IO Status, PUBLICIS-0458509; **Exhibit 29**, 2013-06-27 email from Andrea Ferguson, PUBLICIS-0039990 (“Yes we currently [*sic*] running with Practice Fusion for OxyContin, waiting on approval for Butrans.); **Exhibit 30**, 2013-07-19 email from Pamela Fishman, PUBLICIS-0039973.

¹²⁶ 2013-12-09 presentation, “EMR Evaluation,” PUBLICIS-0369916 at -922.

promoting OxyContin more than 400,000 times.¹²⁷ Publicis knew or should have known that marketing OxyContin for specific disease states was illegal.¹²⁸

OxyContin media plan prioritizes reach against list HCPs using banners to have continual brand reminders and increase preference through in-depth messaging tactics

Selected partners chosen based on their ability to effectively target the HCP list or other qualified audiences, cost efficiencies, and historical performance insights

	Awareness	Education	Evaluation	Prescription
	Banners	Alerts	CEPs	EMRs/EHRs
Strategy	Drive qualified and efficient reach to deliver key messaging and drive action (savings card downloads) Due to efficiency, prioritize all target deciles and expand to broader pain specialists in relevant condition content	Align alert messaging with key brand milestones to delivery timely and relevant information to HCPs Focus delivery on target list and other HCPs based on prescribing behaviors	Increase evaluation by providing HCPs with more in-depth brand messages Due to higher cost per engagements, prioritize target list when possible	Message HCPs at point of care via banners. Deliver savings card via e-couponing Targeting based on diagnosis or other scrip writing behaviors Diagnosis targeting
Partners				

ROSETTA

Source: 2014-03-28 presentation, “2014 Purdue Paid Media Recommendation,” PUBLICIS-0044851 at slide 15.

b. Point-of-prescription targeting for IR to ER conversion

105. In July 2014, members of the Publicis team met internally to discuss further EHR marketing tactics. For its top tactic, Publicis wanted to work with an EHR vendor that could “[t]arget any IR opioid script (by brands or by types of medication) for a patient that is written multiple times (3 or 4) with a branded or unbranded message for OXC.” In other words, Publicis wanted to deploy messages promoting OxyContin or extended-release opioids to doctors as they

¹²⁷ 2014-03-28 presentation, “2014 Purdue Paid Media Recommendation,” PUBLICIS-0044851 at slides 15-16.

¹²⁸ 2014-07-15 email chain from Ari Wexler, PUBLICIS-0004380.

reviewed patients’ charts where the patient had received consecutive immediate-release opioid scripts.¹²⁹ The Publicis team noted that Practice Fusion had the ability to deliver “Branded OxyContin & clinical messages” at the following points in the EHR system: “during patient eRx, patient Medication Selection, [and] edit patient Medication”—in other words, at the point of prescription.¹³⁰ At the meeting, Dwyer inquired whether Practice Fusion had any return on investment or “Rx impact” metrics for its methods for targeting doctors.¹³¹ Measuring marketing results in terms of increased prescriptions and increased dollars was important to Publicis.

106. On August 11, 2014, Dwyer emailed Jim Pantaleo at Practice Fusion with his ideas for “aggressive EMR strategies” Publicis and Practice Fusion could pursue for Purdue. Dwyer focused on the point of prescription—the moment where a doctor is just about to write a prescription using the Practice Fusion EHR system. For doctors poised to prescribe immediate-release oxycodone, Dwyer recommended alerts about OxyContin and its 12-hour dosing right at that “point-of-prescription.” For doctors about to prescribe an extended-release opioid other than OxyContin—a competitor—Dwyer recommended alerts about OxyContin’s formulary coverage.¹³² Dwyer and Publicis intended that these messages would drive doctors to prescribe more OxyContin to more patients, including patients who had never been on an extended release opioid before.

107. Another tactic Dwyer told Pantaleo Publicis and Practice Fusion could partner on for Purdue was to “serve a Reassessment reminder” alert whenever a doctor used the Practice Fusion EHR interface to prescribe consecutive prescriptions for OxyContin, for example, two 30-day prescriptions for OxyContin 10 mg in a row. Like the *Reassess at Every Step* campaign,

¹²⁹ 2014-07-17 email from John Dwyer, PUBLICIS-0444280.

¹³⁰ 2014-07-17 email from Ciara Hall, PUBLICIS-0030019, attaching spreadsheet, PUBLICIS-0030020.

¹³¹ **Exhibit 31**, 2014-07-18 email from John Dwyer, PUBLICIS-0003200.

¹³² 2014-08-11 email from John Dwyer, PUBLICIS-0016530.

Publicis understood that this reassessment alert was about titration, and would cause doctors to be more likely to increase the dose of their patient's OxyContin prescription each time the prompt appeared.¹³³ Publicis also knew that higher dose prescriptions increased a patient's opioid tolerance, increasing each patient's risk of opioid use disorder, overdose, and death. Despite this knowledge, Publicis was eager to have Practice Fusion's EHR system steer doctors to upping their patients' prescriptions of OxyContin.

108. In April 2015, Publicis reviewed its digital promotion guidelines for Purdue and took steps to back away from aggressive EHR marketing through Practice Fusion by halting ads for Hysingla ER on certain pages within a patient's profile.¹³⁴ But the pause didn't last long.

c. EHR marketing expands to include CDS alerts

109. On Thursday, August 27, 2015, staff from Publicis Health Media and Razorfish Health presented "[t]argeting of advertisements within EMR/EHR/eRx platforms" as Purdue's number one opportunity and noted that Practice Fusion was the only platform provider offering Clinical Decision Support – the CDS alerts.¹³⁵

110. That same week, Publicis Health Media director Krystina Rubino confirmed to Dwyer that Practice Fusion was "in the plan" for Purdue. Dwyer replied that, in that case, Publicis should tell Purdue to do a "pilot test" of a message to promote Hysingla that would say: "Consider whether this patient may be appropriate for an extended release hydrocodone." Rubino responded that Publicis and Purdue would pursue this type of message, "but for OxyContin only."¹³⁶

¹³³ *Id.*; see also **Exhibit 32**, 2014-08-11 email from Jim Pantaleo to John Dwyer, PUBLICIS-0002996 ("We may not have the exact strategic messaging tactics, but I believe all of the below can be executed).

¹³⁴ 2015-04-23 email chain from Jen Pares, PUBLICIS-0116668.

¹³⁵ **Exhibit 33**, 2015-08-27 presentation, "Media Landscape & Opportunities," PUBLICIS-0113172 at slides 1-2, 7, 11.

¹³⁶ 2015-09-03 email chain between Krystina Rubino and John Dwyer, PUBLICIS-0027859.

111. Two weeks later, Purdue’s marketing department sent an email, including to Publicis staff, outlining its 2016 plan to use CDS alerts to drive more and more prescriptions of extended-release opioids. Purdue had contracted with Practice Fusion directly, noting that the CDS alerts would trigger doctors “at the point of prescription” to “reassess” patients for the “need for Extended Release Opioids,” just as John Dwyer had told Practice Fusion’s Jim Pantaleo a year earlier in his August 11, 2014 email, and just as the United States Attorney outlined in its first charges against Practice Fusion.¹³⁷ Purdue estimated that 25% of the new prescriptions generated by the alerts would be for Purdue’s drugs, equaling \$2 million in added revenue. The email answered Dwyer’s earlier question about return on investment: 2 to 1.¹³⁸

112. EHR banner advertisements and CDS alerts remained a focus of Publicis’s and Purdue’s marketing strategy to get doctors to write more prescriptions for Purdue’s drugs for years. In devising its 2018 Media Plan for Purdue, Publicis stressed “[i]ntercept[ing] HCPs within their native workflow (i.e. EMR)” as part of its “Strategic Media Approach to Planning” and listed “EHR” among its “Tactical Media Considerations.”¹³⁹ At the end of the Media Plan, Publicis listed three ways to measure its success. First, Publicis listed “Awareness”—how many of the targeted prescribers viewed the messages, and how many times. Second, Publicis listed “Engagement”—how many times prescribers clicked through. Finally, Publicis listed “Trial”—which it defined as “Rx Lift.” Publicis measured its success by the number of new prescriptions for Purdue’s drugs doctors trialed on their patients, including in Massachusetts.¹⁴⁰

¹³⁷ “Practice Fusion eHR Quality Guideline Initiative,” PUBLICIS-0234888 at -888; Information at 1, *United States v. Practice Fusion, Inc.*, No. 2:20-CR-11 (D. Vt. Jan. 27, 2020), ECF No. 2-3, <https://www.justice.gov/usao-vt/press-release/file/1239601/download>.

¹³⁸ **Exhibit 34**, 2015-09-10 email from Peter Justason, PUBLICIS-0234887, attaching “Practice Fusion eHR Quality Guideline Initiative,” PUBLICIS-0234888 at -888, -891.

¹³⁹ 2017-11 “Media Brief | HCP,” PUBLICIS-0147795 at -796; *see also* presentation, “Purdue Franchise: 2018 media recommendation,” PUBLIC-0335420 at slide 5 (“Intercept HCPs in EMR workflow with [Hysingla and OxyContin] messaging to support HCP need for prescribing resources at point of Rx”).

¹⁴⁰ 2017-11 Media Brief | HCP, PUBLICIS-0147795 at -798.

113. Even when Publicis disguised its work with euphemisms like “supporting responsible opioid prescribing,” it did not evaluate performance based on anything that helped patients – reducing dangerous high-dose prescriptions, reducing overdoses, or reducing deaths. Instead, Publicis evaluated its performance based on something that hurt patients: “Rx Lift.”¹⁴¹ It was the same pattern as four years before, when Publicis and Purdue camouflaged their campaign behind codewords “Individualize the Dose,” but designed the marketing and measured its success by how well it got patients to the highest and most profitable doses.¹⁴²

114. When promoting itself, Publicis says it cares about the consequences of its work: “In healthcare, performance cannot be measured in clicks or impressions or even office visits. Our only KPI is outcomes — business outcomes and patient outcomes.”¹⁴³ But when it was time to choose between outcomes that were good for business and outcomes that were good for patients, Publicis chose to put patients at risk.

IX. PUBLICIS HELPED CAUSE A PUBLIC HEALTH DISASTER OF OPIOID USE DISORDER AND DEATH

115. Publicis always knew that it was wrong to help Purdue push opioids on more patients, at higher doses, for longer periods of time. In 2014, John Dwyer received a report that 668 people had died of opioid overdoses in Massachusetts during 2012. The same morning, Dwyer was told that DEA officials believed “an oversupply of painkillers is fueling the black market for both prescription opioids and heroin.” Dwyer responded to the news in an internal email: “in the opioid market there are so many other factors to consider than just ‘how can we

¹⁴¹ *Id.* at -795, -798.

¹⁴² 2013-09-03 Rosetta Creative Brief, PUBLICIS-0000094 at -098.

¹⁴³ *About Us*, Publicis Health Media, <https://www.publicishealthmedia.com/our-approach/> (last visited May 3, 2021).

increase sales of our product?’”¹⁴⁴ But Dwyer and his colleagues at Publicis and Purdue disregarded those other factors in order to chase the profits from opioid sales.

116. On March 22, 2016, in an email titled “We’re gonna need a bigger boat,” Dwyer emailed Razorfish Health executive vice president Karl Tiedemann with a preview of how much money Publicis could collect from Purdue that year. Dwyer forecast total fees for the just Razorfish Health to be between \$11.888 and \$12.288 million. Tiedemann replied with just two words: “Oh boy.” Thirteen minutes later Dwyer wrote back: “Shyeah. (Jim Carrey exaggerated gag reflex motion).”¹⁴⁵ That same day, Dwyer relayed the Purdue fees news to Publicis CFO Albert Fins, noting, “[o]n top of that, there is about \$1.8-2.0M in fee for [Publicis Health Media] work which is billed through [Razorfish Health] to Purdue.”¹⁴⁶

117. The very next day, after the celebratory reference to Jim Carrey in *Dumb and Dumber*, Tiedemann and Dwyer pitched Publicis’s services to the Partnership to End Addiction, the non-profit famous for the TV ad *This Is Your Brain on Drugs*, for a project involving the website drugfree.org.¹⁴⁷ In planning for its pitch to the non-profit, Publicis prepared a summary of its expert knowledge about opioids and marketing. That summary was comprised entirely of its work for Purdue. Summing up a 15-point list covering the gamut of Publicis’s work for Purdue since February 2010, Dwyer wrote:

We’ve been immersed in the evolving national opioid medication dialogue going on between pharma companies, the government and FDA, the media, and the public via inside access as a trusted and informed consulting partner. . . . We’ve

¹⁴⁴ 2014-06-11 email from John Dwyer, PUBLICIS-0001981.

¹⁴⁵ **Exhibit 35**, 2016-03-22 email chain between John Dwyer and Karl Tiedemann, PUBLICIS-0322200.

¹⁴⁶ 2016-03-22 email from John Dwyer, PUBLICIS-0214501. PHM is Publicis Health Media; RFH is Razorfish Health.

¹⁴⁷ 2016-03-23 email from John Dwyer, PUBLICIS-0322095 at -096; Partnership to End Addiction, drugfree.org (last visited May 3, 2021). In 2016, drugfree.org was run by the Partnership for Drug-Free Kids, which later merged with the Center on Addiction to form the Partnership to End Addiction, as it is known today. *This Is Your Brain on Drugs* was an ad campaign of the Partnership for a Drug-Free America, a predecessor to the Partnership for Drug-Free Kids.

been ingrained in the evolution of these issues for 6 years as other companies have come and gone; monitoring the progress made with HCPs and patients.¹⁴⁸

118. Publicis won the drugfree.org account. In July 2016, Dwyer advised the non-profit on Publicis's research into opioid prescribing including "the trend of NPs and PAs increasing prescribing of opioids over the last 5 years." A Publicis colleague bragged about Dwyer's insider knowledge:

I doubt there's a marketer that knows the opioid marketplace like you do. You are speaking from a very secure place of knowledge in terms of RX targeting and who is driving RXs.

Publicis knew that the effort to protect people from drugs did not have nearly as big a marketing budget as the companies promoting drugs. The same Publicis staffer wrote that drugfree.org was "underfunded," and trying to achieve its goals was like "trying to put 100 pounds of)*(in a 50 pound bag."¹⁴⁹ But Publicis did not reflect on what it had done to make the crisis so deadly. Instead, it kept promoting Purdue's opioids and cashing Purdue's checks.

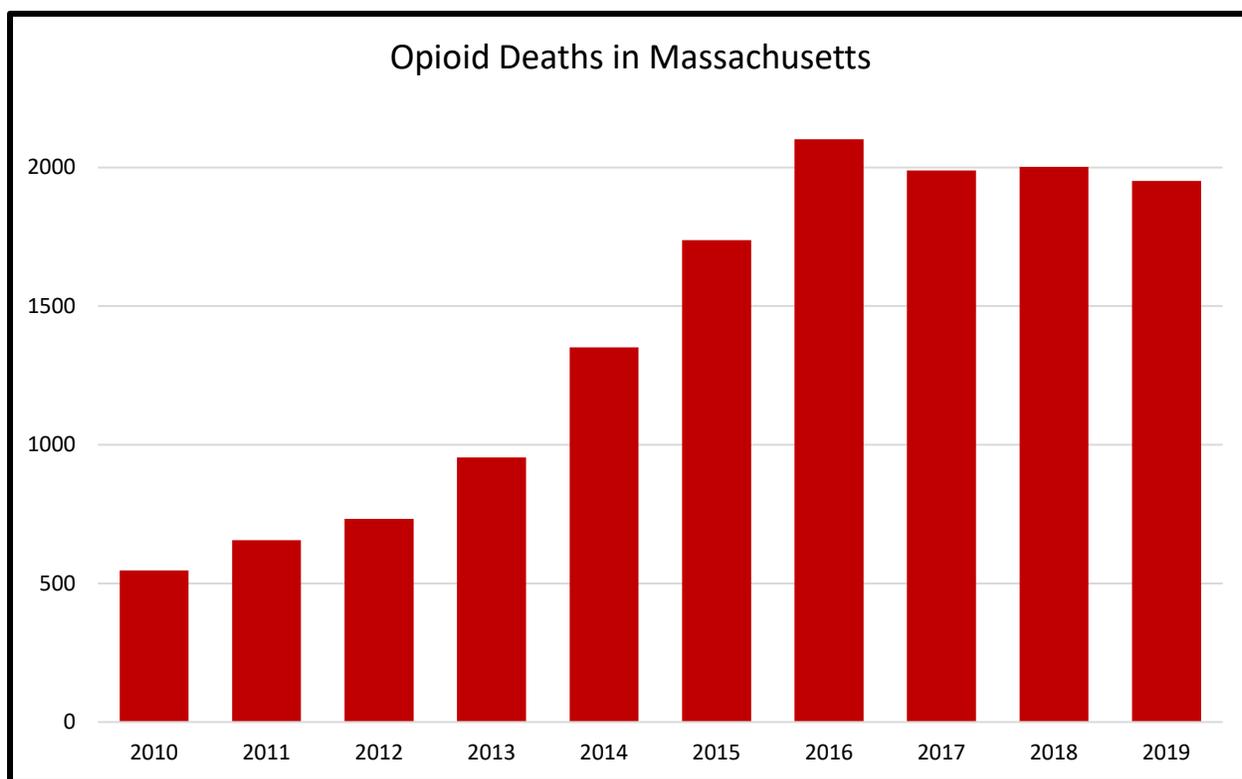
119. Publicis used its expertise to promote extended-release opioids for Purdue, including through emails to doctors and ads within patients' electronic health records, to increase prescriptions for extended-release opioids like OxyContin and increase the dose, by design. In its 2016 Guideline, the CDC wrote that its review of the available clinical evidence did not show that "continuous, time-scheduled use of ER/LA opioids is more effective or safer than intermittent use of immediate-release opioids or that time-scheduled use of ER/LA opioids reduces risks for opioid misuse or addiction." Rather, "[o]ne new fair-quality cohort study of Veterans Affairs patients found initiation of therapy with an ER/LA opioid associated with

¹⁴⁸ **Exhibit 36**, 2016-03-01 email from John Dwyer, PUBLICIS-0146807.

¹⁴⁹ **Exhibit 37**, 2016-07-29 email from John Dwyer, PUBLICIS-0128954 at -954-55; 2016-07-30 email from Paulette McCarron, PUBLICIS-0128954 at -954.

greater risk for nonfatal overdose than initiation with an immediate-release opioid, with risk greatest in the first 2 weeks after initiation of treatment.”¹⁵⁰

120. In Massachusetts, Publicis’s aggressive, unfair, and deceptive marketing campaigns for opioids made the opioid crisis worse. Publicis caused doctors to prescribe and patients to take opioids that were unsafe, ineffective, and medically unnecessary, and that were often diverted for uses that lacked a legitimate medical purpose. Publicis substantially contributed to an epidemic of opioid use disorder and death.



AGO graph from Massachusetts Department of Public Health data

121. Widespread opioid use disorder, overdose, and death were the foreseeable consequences of Publicis’s conduct. Publicis devised marketing schemes like *Individualize the Dose* and *Reassess at Every Step* to get doctors to titrate patients up, dose by dose, from the 10

¹⁵⁰ *Guideline for Prescribing Opioids for Chronic Pain – United States, 2016*, Centers for Disease Control and Prevention (Mar. 18, 2016), <https://www.cdc.gov/mmwr/volumes/65/rr/rr6501e1.htm>.

mg tablet up to the 80 mg pill—the highest, most dangerous, and most profitable dose. For patients, taking higher doses of opioids increases the risk of opioid use disorder, overdose, and death. In Massachusetts, from January 1, 2009 through November 20, 2019, approximately 7,437 patients filled prescriptions for 80 mg OxyContin. At least 140 of those Purdue patients have died of opioid-related overdoses — a death rate of 1.9%.

122. In 2016, the same year that Publicis won the Butrans account due to its success in driving up prescriptions of OxyContin the year before, the Director of the CDC wrote in the *New England Journal of Medicine* that the death rate from opioid-related overdoses was as high as 3% among patients receiving doses of 200 MME or higher.¹⁵¹ He summarized: “We know of no other medication routinely used for a nonfatal condition that kills patients so frequently.”¹⁵²

123. Publicis also devised schemes to increase patients’ “length of therapy” and keep patients on opioids longer. The Massachusetts Department of Public Health studied more than a million real Massachusetts patients during the years of Publicis’s misconduct and found that staying on prescription opioids longer dangerously increases the risk of overdose death. Compared to the general population, a patient who receives three months of prescribed opioids is **30 times** more likely to overdose and die. A patient who stays on prescription opioids for 6-11 months is **46 times** more likely to die. And a patient who stays on prescription opioids for a year is **51 times** more likely to die.¹⁵³

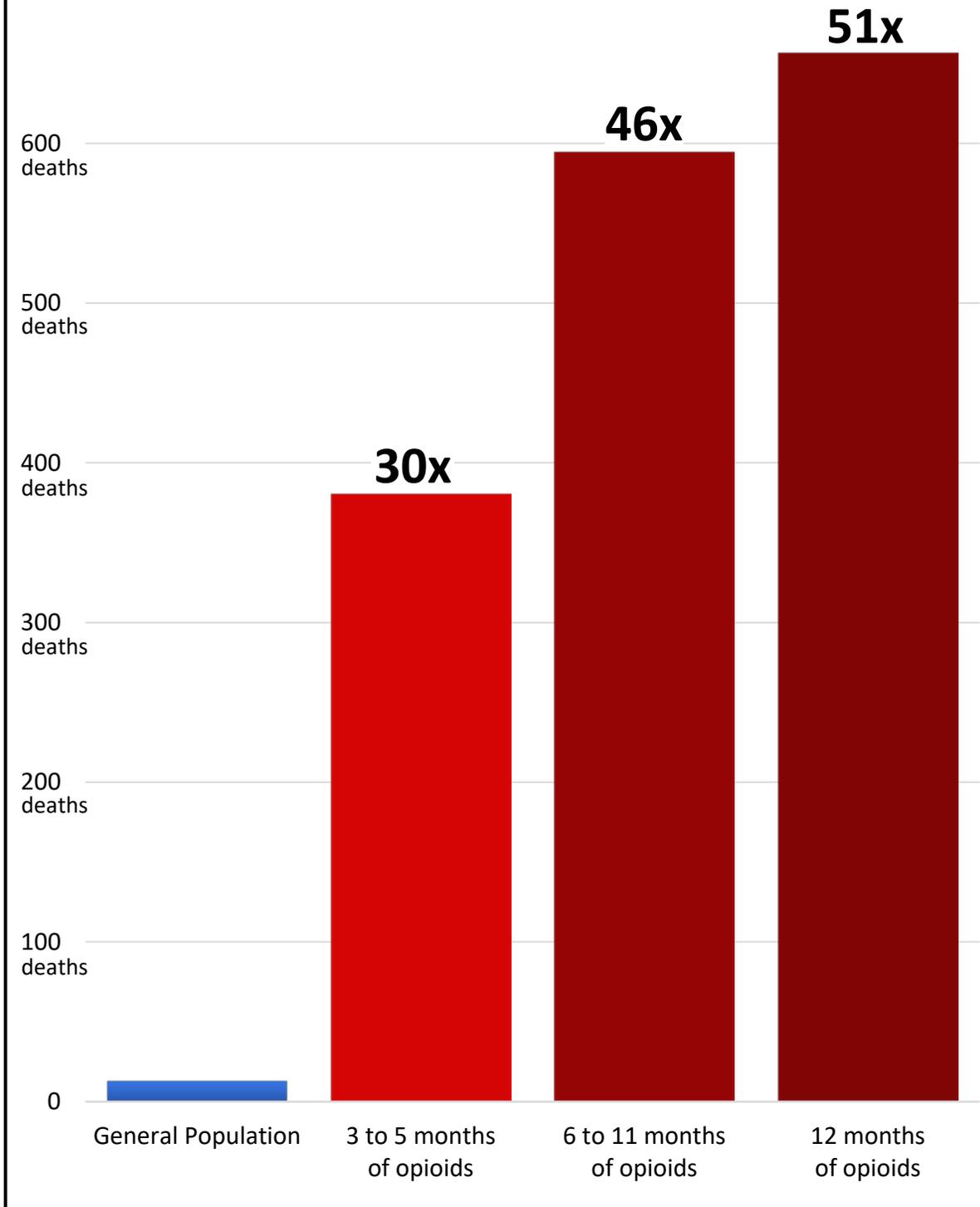
¹⁵¹ A patient prescribed OxyContin 80 mg to be taken every 12 hours receives a dose of 240 MMEs per day.

¹⁵² Thomas R. Friedman et al., *Reducing the Risks of Relief — The CDC Opioid-Prescribing Guideline*, 374 *New Eng. J. Med.* 1501, 1501-04 (2016), <https://www.nejm.org/doi/full/10.1056/nejmp1515917>.

¹⁵³ Massachusetts Dep’t of Pub. Health, *An Assessment of Opioid-Related Overdoses in Massachusetts 2011-2015*, at 3 (Aug. 1017), <https://www.mass.gov/files/documents/2017/08/31/data-brief-chapter-55-aug-2017.pdf>.

Keeping Patients On Opioids Longer Kills Them

Opioid-related overdose deaths per 100,000 people in a study of 1.1 million Massachusetts patients prescribed opioids in 2011



AGO graph from Massachusetts Department of Public Health data

124. Dangerous prescriptions, overdoses, and deaths flowed directly and foreseeably from the marketing schemes Publicis devised, like targeting high-decile prescribers, and training sales reps to perform like Publicis’s model rep “Ken” and overcome doctors’ objections to prescribing. Compared to Massachusetts doctors and nurses who prescribed Purdue opioids without lobbying by Purdue sales reps, the Massachusetts prescribers who received the most visits from Purdue sales reps wrote far more dangerous prescriptions. Compared to Massachusetts doctors and nurses who prescribed Purdue opioids without seeing reps, Purdue’s top targets in Massachusetts were *at least ten times more likely* to prescribe Purdue opioids to patients who overdosed and died.

125. Publicis’s unfair and deceptive marketing campaigns for Purdue, as outlined above, reached Massachusetts prescribers thousands of times. Publicis caused more than 7,000 unfair or deceptive emails to be delivered to Massachusetts prescribers to promote Purdue’s dangerous drugs.¹⁵⁴ That tally doesn’t include the many times a Purdue sales rep distributed a misleading Publicis-designed handout to a prescriber or a prescriber visited a misleading Publicis-designed website like oxycontin.com or saw a banner ad for a Purdue drug in a patient’s EHR chart that Publicis helped create.

126. Publicis knew better, but it continued to endanger the public anyway. As Purdue’s strategic advisor, Publicis helped to decide whether and how marketing of Purdue opioids should continue. In 2016, Publicis prepared an alternative strategy to address the opioid crisis by shutting down Purdue’s sales force and moving to “get every patient off Purdue’s medications.” Publicis wrote that those choices to stop marketing opioids would “fully embrace

¹⁵⁴ PUBLICIS-0161667; PUBLICIS-0336021; PUBLICIS-0342810.

a deeper-held responsibility for progress in pain and keeping people safe.”¹⁵⁵ Instead, Publicis and Purdue chose to keep people in danger.

127. Publicis’s misconduct has imposed lasting hardship on the people who lost their loved ones. Because of Publicis’s schemes, too many children in Massachusetts have lost their parents to an overdose. Too many parents in Massachusetts have buried their children. Too many grandparents in Massachusetts are raising their grandchildren.

128. Patients who survive opioid use disorder need lengthy, difficult, and expensive treatment. People who are addicted to opioids are often unable to work. The addiction of parents can force their children into foster care. Babies are born addicted to opioids because they are exposed to the drugs in the womb.

129. Publicis’s misconduct has imposed heavy costs on the people of Massachusetts and on the Commonwealth. Intensive care for a newborn who has been harmed by opioids can cost \$200,000, before the baby even comes home from the hospital. The injuries from opioid use disorder and overdose are staggering. For example, the White House Council of Economic Advisers determined that a middle estimate of the cost of each death from opioid overdose is \$9.6 million. In federal bankruptcy court this year, states submitted a claim estimating that the costs for states to address the opioid epidemic exceed \$2 trillion. Massachusetts’ share of that claim totals more than \$90 billion.

130. In 2014, the Governor of Massachusetts declared the opioid crisis a public health emergency. The Governor’s Office reported: “The use of oxycodone and other narcotic painkillers, often as a route to heroin addiction, has been on the rise for the last few years in Massachusetts.” The Governor stated: “We’ve been seeing this big and growing problem with

¹⁵⁵ **Exhibit 38**, 2016-08-07 email from John Dwyer, PUBLICIS-0012509, attaching 2016-08-07 presentation, “Purdue Pharma’s Corporate Identify Transformation,” PUBLICIS-0012511 at slide 9.

OxyContin for some time.” He added: “We have an epidemic of opiate abuse in Massachusetts, so we will treat it like the public health crisis it is.”¹⁵⁶

131. By early 2015, Publicis knew that OxyContin alone accounted for more than 72% of the entire branded opioid market by total prescription volume, with Purdue products claiming more than 83% of that market altogether.¹⁵⁷

132. In 2017, the President of the United States declared the opioid crisis a national public health emergency.

133. For that same year, and again for 2018, Publicis Groupe touted Purdue as one of its “main new business wins” in its Annual Results.¹⁵⁸

134. The widespread harm to public health that Publicis caused in Massachusetts is reflected in claims that the Commonwealth, as well as many Massachusetts cities, towns, and individuals, filed in Purdue’s bankruptcy. Claims came from Acton, Andover, Barnstable, Bedford, Belmont, Boston, Braintree, Burlington, Carlisle, Concord, Dover, Fall River, Hopkinton, Ipswich, Lexington, Littleton, Medford, Milton, Pittsfield, Plymouth, Quincy, Reading, Sheffield, Somerville, Stockbridge, Templeton, Watertown, Wellesley, Whately,

¹⁵⁶ Marc Larocque, *Gov. Patrick declares public health emergency in wake of heroin epidemic*, Patriot Ledger (Mar. 27, 2014), <https://www.patriotledger.com/article/20140327/NEWS/140326456>; Richard Valdmanis, *Massachusetts declares heroin emergency, looks to anti-overdose drug*, Reuters (Mar. 27, 2014), <https://www.reuters.com/article/usa-heroin-massachusetts-idINL5N0MO5BE20140327>; Bradley J. Fikes, *Zohydro banned in Massachusetts*, Chicago Tribune (Mar. 28, 2014), <https://www.chicagotribune.com/sdut-zohydro-ban-mass-zogenix-deval-2014mar28-story.html>.

¹⁵⁷ 2015-04-03 email from Christina Ceniza, PUBLICIS-0091060, attaching presentation, “Purdue products hold over 83% of the current branded ERO TRx market volume,” PUBLICIS-0091062.

¹⁵⁸ Publicis Groupe, 2017 Annual Results at 16-17 (Feb. 8, 2018), https://www.publicisgroupe.com/sites/default/files/press-release/CP_Results_Q4_2017_ENG.pdf (last visited May 3, 2021); Publicis Groupe, 2018 Full Year Results at 21-22 (Feb. 6, 2019), https://www.publicisgroupe.com/sites/default/files/press-release/CP_Resultats_FY2018_GB.pdf (last visited May 3, 2021).

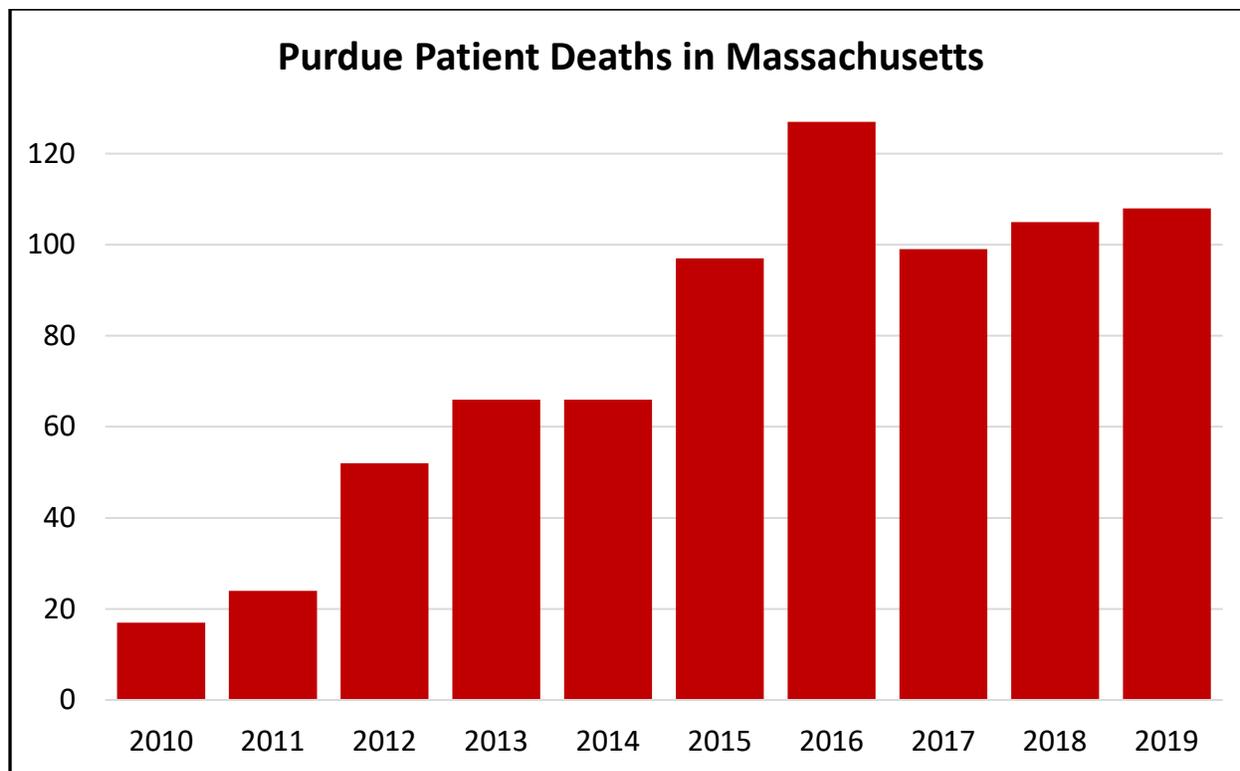
Wilmington, and Winchester – as well as the Boston Housing Authority, the Boston Public Health Commission, and more than 1,600 individuals seeking recovery for personal injuries.¹⁵⁹

135. Purdue’s dangerous marketing was so influential that economists estimate it caused “a substantial share of” of all opioid-related overdose deaths in America over the last two decades.¹⁶⁰ In Massachusetts, looking solely at the opioid-related overdose deaths where records clearly establish that the patient was prescribed Purdue’s OxyContin, the most recent data show that, on average, approximately two Purdue patients are dying of overdoses every week.¹⁶¹

¹⁵⁹ Claim Nos. 28600, 145528, 149489, 149490, 149491, 149492, 149493, 149494, 143930, 143674, 143729, 143737, 143455, 143801, 143746, 143677, 143643, 149495, 149496, 143790, 144304, 75158, 68029, 82339, 66076, 144524, 150424, 143245, 150388, 150306, 150226, 144914; Personal Injury Claim Summary, *In re Purdue Pharma L.P.*, No. 19-23649-rdd (Bankr. S.D.N.Y. Dec. 23, 2020), <https://restructuring.primeclerk.com/purduepharma/Home-ClaimInfo> (listing 1,655 personal injury claims from Massachusetts as of Dec. 23, 2020).

¹⁶⁰ Abby E. Alpert et al., Nat’l Bureau of Econ. Research, *Origins of the Opioid Crisis and Its Enduring Impacts* (Nov. 2019), https://www.nber.org/system/files/working_papers/w26500/w26500.pdf.

¹⁶¹ A Purdue patient is a patient who filed at least one prescription of OxyContin in Massachusetts and later died of an opioid-related overdose in Massachusetts. The States’ Notice of Public Health Information to Protect Purdue Patients at 3, *In re Purdue Pharma L.P.*, No. 19-23649-rdd (Bankr. S.D.N.Y. Dec. 9, 2019), ECF No. 630, <https://www.mass.gov/doc/december-9-2019-notice-of-public-health-information-to-protect-purdue-patients/download>.



AGO analysis from Massachusetts Department of Public Health data

X. CAUSES OF ACTION

**Count I
Public Nuisance**

136. The Commonwealth realleges each allegation above.

137. Under Massachusetts common law, a defendant is liable for the tort of public nuisance when its conduct causes an unreasonable interference with a right common to the general public, such as interference with the public health, public safety, public peace, or public comfort and convenience.

138. The Massachusetts Attorney General is empowered to bring a *parens patriae* action on behalf of the Commonwealth for abatement of a public nuisance.

139. Through its misconduct, including as described in this Complaint, Publicis was a substantial participant in creating and maintaining in Massachusetts a public nuisance of opioid

use disorder, overdoses, and death that significantly interferes with the public health, safety, peace, comfort and convenience.

140. Publicis analyzed, designed, and deployed opioid marketing campaigns leading directly and collectively to an epidemic of opioid use disorder, overdoses, and death, which resulted in substantial public injuries in Massachusetts.

141. The injuries that Publicis caused in Massachusetts have been significant and long-lasting, for both the Commonwealth and the public, including: (a) opioid use disorder, overdose, and death; (b) health care costs for individuals, children, families, employers, the Commonwealth, and its subdivisions; and (c) special public costs borne solely by the Commonwealth in its efforts to abate the nuisance and to support the public health, safety, and welfare.

142. The Commonwealth has spent at least hundreds of millions of dollars on special treatment, prevention, intervention, and recovery initiatives to abate the harms of the opioid epidemic, including appropriating \$134 million in FY 2016, \$173 million in FY 2017, \$185.3 million in FY 2018, and more than \$200 million in FY 2019. The Commonwealth seeks reimbursement from Publicis for its expenses abating the harms Publicis caused.

143. The Commonwealth has a special relationship with, and responsibility to its residents, including its responsibility to uphold the public health, safety, and welfare. Publicis had reason to know of this relationship at all times.

144. Publicis, at all times, had reason to know of the public nuisance created by its misconduct.

145. Publicis's misconduct was unreasonable in light of the lack of scientific support for its dangerous schemes and claims and was negligent and reckless with regard to the known risks of the opioids its marketing schemes helped market and promote.

Count II
UNFAIR AND DECEPTIVE ACTS AND PRACTICES
IN VIOLATION OF G.L. c. 93A, § 2

146. The Commonwealth realleges each allegation above.

147. G.L. c. 93A, § 4 authorizes the Attorney General to bring an action to enjoin a defendant from engaging in a method, act, or practice that violates G.L. c. 93A, § 2.

148. On April 6, 2021, the Attorney General notified Publicis of her intention to file this suit and offered it an opportunity to confer, in conformance with G.L. c. 93A.

149. Through its conduct, including as described in this Complaint, in the course of marketing and promoting opioids in Massachusetts, Publicis engaged in unfair and deceptive acts and practices in Massachusetts in the conduct of trade or commerce in violation of G.L. c. 93A, including by making false and misleading claims and failing to disclose material risks to get more patients on opioids, including Purdue's, at higher doses for longer periods of time, and to steer patients away from safer alternatives. Through its unfair and deceptive conduct, Publicis succeeded in getting many Massachusetts doctors to prescribe and Massachusetts patients to take and remain on opioids, including Purdue's.

150. By means of its unfair and deceptive acts, Publicis collected tens of millions of dollars.

151. Because of Publicis's unfair and deceptive acts, the Commonwealth and its residents suffered ascertainable injuries and losses of billions of dollars.

152. Publicis knew or should have known it was committing unfair and deceptive acts in violation of G.L. c. 93A, § 2.

153. Each unfair or deceptive act was a distinct violation of G.L. c. 93A.

XI. PRAYER FOR RELIEF

WHEREFORE, the Commonwealth respectfully requests that this Court enter judgment in favor of the Commonwealth as follows:

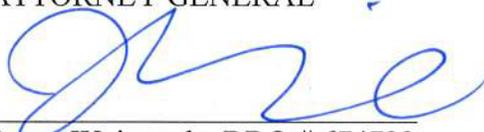
- a. Determine that Publicis created a public nuisance;
- b. Order Publicis to abate the nuisance, to reimburse the cost of the Commonwealth's abatement efforts, and to pay compensatory damages for harms caused by the nuisance;
- c. Determine that Publicis engaged in unfair and deceptive acts and practices in violation of G.L. c. 93A, § 2;
- d. Permanently enjoin Publicis from engaging in unfair and deceptive acts and practices;
- e. Enjoin Publicis from marketing controlled substances in Massachusetts;
- f. Order Publicis to disgorge all payments received as a result of their unlawful conduct;
- g. Order Publicis to pay full and complete restitution to every person who has suffered any ascertainable loss by reason of its unlawful conduct;
- h. Order Publicis to pay civil penalties of up to \$5,000 for each and every violation of G.L. c. 93A, § 2;
- i. Award the Commonwealth costs and attorney's fees, pursuant to G.L. c. 93A, § 4;
and
- j. Grant all other relief as the Court may deem just and proper.

Dated: May 6, 2021

Respectfully submitted,

COMMONWEALTH OF MASSACHUSETTS

By its Attorney,
MAURA HEALEY
ATTORNEY GENERAL

A handwritten signature in blue ink, appearing to be 'Jenny', written over a horizontal line.

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Gillian Feiner, BBO # 664152
Eric M. Gold, BBO # 660393
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