

**STATE OF RHODE ISLAND
PROVIDENCE, S.C.**

SUPERIOR COURT

STATE OF RHODE ISLAND)
)
 Plaintiff,)
)
 v.)
)
 PUBLICIS HEALTH, LLC,)
)
 Defendant.)

C.A. No.

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF

Comes now the Plaintiff, the State of Rhode Island, upon relation of Peter F. Neronha, Attorney General for the State of Rhode Island, who brings this action pursuant to the Rhode Island Deceptive Trade Practices Act, R.I. Gen. Laws § 6-13.1-1, et seq., Rhode Island public nuisance law, R.I. Gen. Laws § 10-1-1, et seq., and the common law of the State of Rhode Island, against Defendant, Publicis Health, LLC, (“Publicis” or “Defendant”). In support thereof, the State alleges:

I. Defendant

1. Defendant Publicis is a Delaware limited liability company headquartered in New York, New York. Publicis’s ultimate corporate parent is Publicis Groupe, S.A. (“Publicis Groupe”), a publicly-traded joint stock limited liability company organized under the laws of France. At all times relevant to this proceeding, Publicis did business in the State of Rhode Island. The term “Publicis” as used in this Complaint includes, collectively, Publicis Health, LLC and each of its American affiliated entities that worked on opioid related matters from 2010 through 2021: Razorfish Health, LLC, Verilogue, Inc., Publicis Health Media, LLC, Rosetta Marketing Services, LLC, Saatchi & Saatchi Healthcare Communications, Inc., d/b/a Razorfish Health.

II. Jurisdiction and Venue

2. This Court has subject matter jurisdiction over this matter under R.I. Gen. Laws § 6-13.1-5.
3. This Court has personal jurisdiction over the Defendant based on the Defendant's presence within the State of Rhode Island.
4. Venue is properly placed in this Court pursuant to R.I. Gen. Laws § 9-4-3.

III. Factual Allegations

5. Beginning in the mid-1990s and continuing through the late 2010s, opioid manufacturers pursued aggressive sales strategies to increase sales of their prescription opioids, a plan that resulted in a dramatic rise in opioid prescriptions across the United States. The rise in opioid prescriptions caused an equally devastating rise in opioid abuse, dependence, addiction, and overdose deaths.
6. In Rhode Island, the increase in opioid prescriptions contributed to numerous instances of opioid abuse, dependence, addiction, and overdose deaths in the State of Rhode Island. It also contributed to a sharp increase in the use of even more powerful drugs such as fentanyl and heroin, which are sometimes used by themselves and other times used in combination with prescription opioids. Fentanyl and heroin use exacerbated opioid abuse, dependence, addiction, and overdose deaths in the State of Rhode Island.
7. Publicis is one of the world's largest healthcare advertising companies with 40 offices and 11 brands worldwide. Publicis advertises to potential clients that it can translate healthcare marketing into healthcare engagement.

8. The State brings this action against Publicis for the advertising and marketing consulting services it provided to opioid manufacturers, including Purdue Pharma L.P. (along with related entities Purdue Pharma Inc., and the Purdue Frederick Company, collectively “Purdue”). Publicis was in a Master Services Agreement with Purdue from 2010 to 2021. Over the decade of the Purdue-Publicis partnership, Purdue paid Publicis more than \$70 million for dozens of unfair and deceptive marketing schemes.

9. From 2010 until 2019, Purdue was Publicis’ top opioid client, and Publicis was Purdue’s number one marketing partner, serving as Purdue’s “agency of record.” Publicis worked with Purdue to promote branded opioids OxyContin, Butrans, and Hysingla and helped develop unbranded marketing campaigns.

10. Publicis’s projects covered all aspects of Purdue’s marketing and sales, including designing sales strategies and tactics, maximizing the reach and influence of Purdue’s sales force, using electronic media, designing content, developing promotional messaging, drafting scripts and other materials for Purdue sales representatives to use with prescribers, helping with internal operations and sales activities, targeting prescribers who would be most likely to prescribe large amounts of opioids, recording intimate discussions between prescribers and patients about opioids, and a variety of other marketing, consulting, and sales activities.

11. Publicis created many of the materials that Purdue’s sales representatives used when they met with prescribers including an OxyContin Patient Essentials Kit which contained an OxyContin Savings Card. These kits and savings cards were designed to—and did—lure prescribers and patients into extending the length of opioid prescriptions.

12. Publicis developed and created materials that deceptively promoted (i) physicians’ “titration” of extended-release opioids to higher and more dangerous doses, increasing the likelihood of addiction; (ii) physicians’ conversion of immediate-release opioid prescriptions to more dangerous extended-release OxyContin prescriptions; (iii) Purdue’s false messaging that its abuse-deterrent OxyContin formulation was safe and prevented abuse, despite knowing that the formulation would not stop illicit use of OxyContin because the pills could still be abused orally; and (iv) Purdue’s opioid drugs as safe and appropriate for medical conditions for which they are not approved.

13. Publicis also concocted a strategy to deploy Purdue’s sales force to increase opioid sales through unbranded marketing including advising and assisting Purdue in deploying front groups and key opinion leaders to disseminate messaging that prescription opioids were safe and less addictive. Under the guise of neutrality, these groups and opinion leaders conveyed this message to healthcare providers, patients, and policymakers without disclosing that they were being paid or financed by Purdue.

14. In addition to the sales campaigns it created, Publicis facilitated Purdue’s partnerships with other entities. Publicis coordinated and implemented Purdue’s work with McKinsey and Company, Verilogue, Inc., and Practice Fusion, Inc.

15. Publicis worked alongside McKinsey to strategize, develop and implement Purdue’s “Evolve to Excellence” marketing scheme. The “Evolve to Excellence” scheme was intended primarily to—and did—flood the most prolific prescribers of OxyContin with additional sales representative calls and messaging, including messaging involving the purported “abuse

deterrent” aspects of OxyContin as well as the claimed benefits of converting patients to OxyContin and titrating them up to higher doses.

16. Publicis enabled Purdue’s work with another Publicis subsidiary, Verilogue. Verilogue provided prescribers small digital recording devices to record intimate conversations with patients. These conversations were then used by Verilogue and Purdue to figure out how to best overcome patients’ concerns about taking opioids. Publicis implemented Verilogue’s recommendations in its marketing materials.

17. Publicis encouraged and facilitated Purdue’s partnership with Practice Fusion and the use of Practice Fusion’s Clinical Decision Support alerts (“CDS alerts”). As early as 2012, Publicis advocated that Purdue use Practice Fusion’s electronic medical records platform to grow opioid prescriptions. Practice Fusion’s CDS alerts gave prescribers information about extended-release opioids right at the point of prescribing, the exact time when a decision about treatment was being made. The Practice Fusion alerts continued until the Spring of 2019. In 2020, following an investigation by the United States Department of Justice into Practice Fusion’s CDS alerts and Purdue, Practice Fusion paid a \$145 million fine and entered into a deferred prosecution agreement admitting to an illegal kickback scheme in which Practice Fusion was paid by Purdue to create and deploy the CDS alerts in electronic health records to increase prescriptions of Purdue’s opioids.

18. Publicis distributed hundreds of millions of dollars up the corporate chain to its foreign corporate parent, Publicis Groupe, during the time period that Publicis worked with Purdue to deceptively promote opioids. These distributions from Publicis continued—and there are

indications that the amounts increased—as Purdue and Publicis faced increasing public and governmental scrutiny for their deceptive conduct.

IV. Claims for Relief

First Cause of Action **Violation of the DTPA**

19. Plaintiff realleges and incorporates by reference each allegation contained in the preceding paragraphs as if they were set out herein.
20. Defendant, in the course of providing advertising and marketing consulting services to opioid manufacturers, engaged in unfair or deceptive acts and practices that are prohibited by the DTPA.
21. It is an unfair or deceptive act or practice to engage in conduct that “creates a likelihood of confusion or of misunderstanding,” “engag[e] in any act or practice that is unfair or deceptive to the consumer,” and “us[e] any other methods, acts, or practices that mislead or deceive members of the public in a material respect,” in addition to other applicable types of unfair or deceptive acts or practices evidenced by Defendant’s conduct. See R.I. Gen. Laws § 6-13.1-1(6).
22. Defendant’s practices were likely to and did in fact deceive and mislead prescribers into prescribing and consumers into seeking and taking medically unnecessary and in many cases, harmful quantities and strengths of opioids.
23. Defendants’ practices were also unfair to consumers because they caused substantial injury to patients in the form of opioid abuse disorder, overdose and in some cases death,

which could not have been reasonably avoided by those consumers, and which did not provide any offsetting benefits.

Second Cause of Action
Violation of Public Nuisance Law

24. Plaintiff realleges and incorporates by reference each allegation contained in the preceding paragraphs as if they were set out herein.

25. Defendant, in the course of providing advertising and marketing consulting services to opioid manufacturers, created a public nuisance by unreasonably interfering with rights common to the general public as prohibited by R.I. Gen. Laws § 10-1-1, et seq.

Third Cause of Action
Common Law Public Nuisance

26. Plaintiff realleges and incorporates by reference each allegation contained in the preceding paragraphs as if they were set out herein.

27. Defendant, in the course of providing advertising and marketing consulting services to opioid manufacturers, created a public nuisance by unreasonably interfering with rights common to the general public as prohibited by the common law of the State of Rhode Island.

V. Request for Relief

WHEREFORE, Plaintiff respectfully requests that this Court enter an Order:

- a. Adjudging and decreeing that Publicis has engaged in the acts or practices complained of herein, and that such constitute unfair acts or practices in violation of the DTPA and violations of Rhode Island public nuisance law;
- b. Issuing a permanent injunction prohibiting Publicis, its agents, servants,

employees, and all other persons and entities, corporate or otherwise, in active concert or participation with any of them, from engaging in unfair trade practices, as outlined in the Consent Judgment being filed simultaneously with this Complaint;

- c. Ordering Publicis to pay an amount of damages or restitution for violating of the laws set forth above of the State of Rhode Island;
- d. That the Court enter the Consent Judgment being filed simultaneously with this complaint as an Order of the Court; and
- e. Ordering such other and further relief as the Court may deem just and proper.

Dated: February 1, 2024

Respectfully submitted,

STATE OF RHODE ISLAND
BY ITS ATTORNEY

PETER F. NERONHA
ATTORNEY GENERAL,

/s/ Julia C. Harvey
JULIA C. HARVEY (Bar #10529)
Special Assistant Attorney General
150 South Main Street
Providence, RI 02903
(401) 274-4400
jharvey@riag.ri.gov

CERTIFICATION OF SERVICE

I, the undersigned, hereby certify that on the 1st day of February, 2024, I filed this document electronically and it is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

/s/ Meghan Spooner