

MAYOR & CITY COUNCIL OF
BALTIMORE,

Plaintiff,

v.

PURDUE PHARMA L.P., et al.,

Defendants.

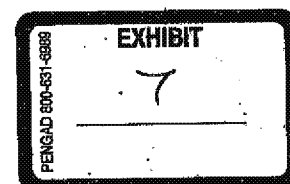
* IN THE
*
* CIRCUIT COURT
*
* OF MARYLAND
*
* FOR BALTIMORE CITY
*
*
* CASE NO.: 24-C-18-000515
*

* * * * *

DECLARATION OF DR. HOWARD HOFFBERG, M.D.

My name is Dr. Howard Hoffberg. I am a resident of Baltimore County, Maryland. I am over the age of 18 and qualified in all respects to give this declaration. The facts set forth in this declaration are within my personal knowledge and are true and correct.

1. From 1992 to 2018, I was the Associate Medical Director and part owner, along with Dr. Norman Rosen, MD, of the Rosen-Hoffberg Rehabilitation and Pain Management Practice ("Practice"). The Practice had offices in Towson, Maryland and Owings Mills, Maryland.
2. My Practice focused in part on pain management. Dr. Rosen and I, along with others who worked at the Practice, prescribed opioids for the treatment of pain. The opioids that I and my Practice prescribed included Schedule II opioids such as oxycodone, hydrocodone, hydromorphone, and fentanyl and Schedule III opioids.
3. The Practice was extremely busy during the years between 2000 and 2018. The Practice saw at least ten thousand patients between 2000 and 2018. The vast majority lived in the Baltimore metropolitan area, including Baltimore City. There were also patients from contiguous states: Virginia, Delaware, and Pennsylvania. We had a few patients from Florida.
4. I am aware that there were complaints regarding patients waiting to be seen outside of the Towson office and waiting in the parking lot. There were patients at both offices that were showing signs of opioid use disorder, including patients who were showing withdrawal symptoms such as irritableness, behavioral aberrations, screaming, sweating, fidgeting, hyperactivity, and impulsivity. At the end of the day, we would occasionally



see potential evidence of opioid drug abuse in bathrooms or around the offices. There were at times people sleeping in the waiting room.

5. Nearly all the patients I treated that had opioid use disorder developed opioid use disorder after receiving opioids for treatment of pain.
6. During the time I was running and working at the Practice, sales representatives and employees from pharmaceutical companies would frequently visit the Practice to promote me and other prescribers at the Practice to prescribe their opioid products. I personally received many visits from sales representatives at Johnson & Johnson/Janssen and its affiliated companies; Cephalon; Teva Pharmaceuticals; Actavis/Allergan; and Purdue Pharma.

Cephalon and Teva

7. For many years in the 2000s and 2010s, the representatives from Cephalon and later Teva Pharmaceuticals—after it purchased Cephalon—came to my Practice to ask me to prescribe their opioid products, including their fentanyl products Actiq and Fentora. The Cephalon/Teva representatives who came to my office included Tim Fisher and Kelly Athey. Mr. Athey and I had a close relationship, and I was a reference for him when he was applying for a job at Purdue. The Cephalon/Teva representatives were assertive with me and my staff and urged us to promote more and more of their opioid products.
8. The Cephalon/Teva sales representatives invited me to dinners where they would pay me to speak about their products, about four times per year from 2007-2015. They would buy me my meals and give me a payment or honoraria for promotional speaking about their products. I understood that Cephalon/Teva was paying me to come to these dinners to reinforce my prescribing of their opioid products, and that the expectation was that they were paying me to promote their products to other prescribers.
9. Cephalon/Teva's sales representatives offered the patients in my Practice financial inducements, vouchers, and rebate coupons to make it easier to prescribe Actiq and Fentora for medical purposes other than breakthrough cancer pain. This was indirectly an off-label promotion of these fentanyl drugs.
10. Cephalon/Teva's promotional activity influenced my prescribing of Actiq and Fentora and encouraged me to prescribe Actiq and Fentora.
11. Cephalon/Teva's sales representatives never spoke to me about any concern about my Practice or the potential for diversion or abuse of opioids from me or my Practice. I never at any point believed that anyone that spoke to me

from Cephalon/Teva had any concerns at all about diversion or abuse of opioids at my Practice. They never brought up this topic with me. They only wanted to speak to me about maintaining my endorsements to approve and prescribe their products. To my knowledge, no one at Cephalon/Teva ever expressed any concerns to anyone at my Practice about diversion or abuse of opioids at my practice. All they cared about was maintaining market share for their products.

12. Cephalon/Teva's sales team likely saw what I discussed above in paragraph 4. Cephalon/Teva's sales team never raised any concerns about any of this conduct.

Johnson & Johnson

13. In the 2000s and 2010s, sales representatives from Johnson & Johnson, Janssen, and their affiliates came to my Practice to urge me to prescribe their opioid products, including Duragesic, Nucynta IR, and Nucynta ER. The Johnson & Johnson/Janssen representatives were assertive with me and my staff and urged us to promote more and more of their opioid products.
14. Johnson & Johnson/Janssen's sales representative told me that their opioid products had a better side effect profile than other opioid products, that they would improve people's quality of life, and that they were less likely to cause withdrawal.
15. Johnson & Johnson/Janssen's sales representatives never spoke to me about any concern about my Practice or the potential for diversion or abuse of opioids from me or my Practice. I never at any point believed that anyone that spoke to me from Johnson & Johnson/Janssen had any concerns at all about diversion or abuse of opioids at my Practice. They never brought up this topic with me. They only wanted to speak to me about maintaining my endorsements to approve and prescribe their products. To my knowledge, no one at Johnson & Johnson/Janssen ever expressed any concerns to anyone at my Practice about diversion or abuse of opioids at my practice. All they cared about was maintaining market share for their products.
16. Johnson & Johnson/Janssen's sales team likely saw what I discussed above in paragraph 4. Johnson & Johnson/Janssen's sales team never raised any concerns about any of this conduct.

Actavis/Allergan

17. Between 2009 and 2012, sales representatives from Actavis, which was at times merged with Allergan, came to my Practice to urge me to prescribe their

opioid product Kadian. The Actavis/Allergan representatives gave my patients financial inducements, vouchers, and rebate coupons to prescribe Kadian.

18. Actavis/Allergan's sales representatives never spoke to me about any concern about my Practice or the potential for diversion or abuse of opioids from me or my Practice. I never at any point believed that anyone that spoke to me from Actavis/Allergan had any concerns at all about diversion or abuse of opioids at my Practice. They never brought up this topic with me. They only wanted to speak to me about maintaining my endorsements to approve and prescribe their products. To my knowledge, no one at Actavis/Allergan ever expressed any concerns to anyone at my Practice about diversion or abuse of opioids at my practice. All they cared about was maintaining market share for their products.
19. Actavis/Allergan's sales team likely saw what I discussed above in paragraph 4. Actavis/Allergan's sales team never raised any concerns about any of this conduct.

Purdue Pharma

20. From approximately 2000 to 2018, sales representatives from Purdue Pharma came to my practice to promote their opioid products, including Butrans, Hysingla, and Oxycontin. The Purdue representatives were assertive with me and my staff and pushed us to promote more and more of their opioid products.
21. The Purdue representatives told me that their opioid products had a better safety profile than other opioid products and were abuse deterrent. They told me that long-acting opioids such as theirs were less likely to be abused.
22. The Purdue sales representatives invited me to dinners where they would pay me to speak about their product Hysingla ER. They would buy me my meals and give me a payment or honoraria for promotional speaking about their products. I understood that Purdue was paying me to come to these dinners to reinforce my prescribing of their opioid products, and that the expectation was that they were paying me to promote their products to other prescribers.
23. Purdue's sales representatives offered the patients in my Practice financial inducements with vouchers and rebate coupons to make it easier to prescribe their opioid products.
24. Purdue's promotional activity influenced my prescribing of their opioid products and encouraged me to prescribe their opioid products.

25. Purdue's sales representatives never orally expressed any concern to me about my Practice or the potential for diversion or abuse of opioids from my Practice. I never at any point believed that anyone that spoke to me from Purdue had any concerns at all about diversion or abuse of opioids at my Practice. They never brought up this topic with me. They only wanted to speak to me about maintaining my endorsements to approve and prescribe their products. To my knowledge, no one at Purdue ever expressed any concerns to anyone at my Practice about diversion or abuse of opioids at my practice. All they cared about was maintaining market share for their products.
26. Purdue's sales team likely saw what I discussed above in paragraph 4. Purdue's sales team never raised any concerns about any of this conduct.

Pharmacies and Distributors

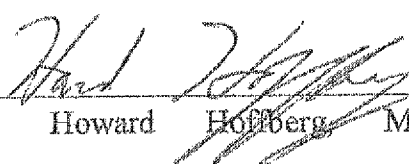
27. During the time that I was operating my Practice, my patients filled most prescriptions at pharmacies all over Baltimore County and Baltimore City.
28. I am not aware of any distributor of opioids (including McKesson, Cardinal Health, or AmerisourceBergen) ever contacting me or any person who worked at my Practice to express concerns about my or my Practice's opioid prescriptions or to do any investigation of opioid prescribing at my Practice. I am not aware of anyone that worked for an opioid distributor ever visiting my Practice either.

Conclusion

29. In retrospect, there are some decisions and actions that I made involving prescription of opioids that I would do differently. The manufacturers of opioids, including Cephalon, Teva, Johnson & Johnson/Janssen, Actavis/Allergan, and Purdue encouraged my conduct and misinformed me about their opioid products, including by making or avoiding statements that would allow me to be less concerned about my prescriptions in relation to the labeling warnings and omitting information about the lack of safety of their products. In my experience, all these companies cared about was promoting their opioid products and making money, and they never expressed any concern about me or my Practice prescribing opioids and preventing diversion.

I declare under penalty of perjury that the foregoing is true and correct.

Declarant


Dr. Howard Hoffberg, MD,