FILED
2026 NOV 05 09:08 AM
KING COUNTY
SUPERIOR COURT CLERK
E-FILED
CASE #: 22-2-20910-1 SEA

STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

STATE OF WASHINGTON, Plaintiff, v. RITE AID CORP.; RITE AID HDQTRS. CORP.; THRIFTY PAYLESS, INC.; THE BARTELL DRUGS COMPANY; THE KROGER COMPANY; QUALITY FOOD CENTERS; FRED MEYER; ALBERTSONS COMPANIES, INC.; SAFEWAY, INC.; and XYZ Corporations 1 through 20, Defendants.	NO. 22-2-20910-1 SEA FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter was tried before the Court over nine weeks, beginning July 13, 2026, and ending on September 14, 2026. Forty-five witnesses delivered testimony and more than 600 exhibits were admitted into evidence. The State's case in chief featured live testimony from State employees, experts, community members, and service providers, as well as deposition testimony from sixteen Albertsons employees and live testimony from one Albertsons employee. Albertsons offered live testimony from experts, deposition testimony from State employees, and live testimony from company witnesses ranging from a former pharmacy manager in North Bend, Washington to its current President of Pharmacy. Having heard and carefully weighed the evidence at trial, the Court FINDS and CONCLUDES:

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

TABLE OF CONTENTS

I. INTRODUCTION 1

II. FINDINGS OF FACT 3

A. The Albertsons Defendants 4

B. Procedural History 5

C. Background 8

1. Opioids and Their Addictive Properties 8

2. Prescription Opioid Diversion and the Resulting Epidemic 11

3. The Opioid Crisis in Washington 14

D. Albertsons' Oversupply of Prescription Opioids Through Diversion 25

1. Albertsons' Failures as a Dispenser to Comply with its Obligations Under the CSA and Washington Law 26

a. Albertsons Failed to Implement or Enforce Sufficient Controlled Substance and "Red Flag" Policies and Procedures 32

i. Red Flag Policies and Procedures 33

ii. Dispensing Data 35

iii. Discount Cards and Cash Payments 39

b. Albertsons Failed to Properly Staff its Pharmacies 52

c. Albertsons Failed to Properly Train its Pharmacists on the Dispensing of Controlled Substances 62

d. Albertsons Failed to Establish an Adequate Compliance Department 65

i. Dispensing Data 70

ii. Mock DEA Audits 73

iii. Field Evaluations 74

e. Albertsons Failed to Document the Resolution of Red Flags 76

f. Albertsons Improperly Incentivized its Pharmacists and Pharmacy Managers to Fill a Higher Volume of Prescriptions for Controlled Substances While Disincentivizing Due Diligence 81

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

g. Albertsons Failed to Prevent the Theft and Loss of Controlled Substances 84

h. Albertsons Failed to Prevent the Dispensing of Opioid Prescriptions Written by Pill Mill Doctors and/or Obtained for Illicit Purposes 86

i. Ann Kammeyer 90

ii. Dennis Mann 93

iii. Ona Schulz 96

iv. Richard Kirkpatrick 98

v. Janet Arnold 98

i. Albertsons Dispensed Inappropriate Quantities of Opioid Pills to Individual Patients 101

j. Albertsons Put Profits Over Safety 104

2. Albertsons' Failures as a Distributor to Comply with its Obligations Under the CSA and Washington Law 106

a. Albertsons' Failure to Identify, Report, or Block Suspicious Orders 106

b. Albertsons' Failure to Act on Information Gleaned from its SOMS 112

E. Albertsons' Contribution to the Public Nuisance in Washington 114

1. Albertsons Dispensed and Distributed a Large Volume of Opioids into Washington 114

2. Albertsons' Oversupply of Opioids Helped Fuel the Opioid Epidemic in Washington 122

3. Albertsons' Alternative Causation Theories 131

a. "Liberal" Prescribing and the "Evolving" Standard of Care 132

b. The OxyContin Reformulation 134

c. Albertsons' Older Customers 138

F. Abatement 139

III. CONCLUSIONS OF LAW 150

A. Public Nuisance 150

1. Albertsons Acted Unlawfully 152

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

2. Albertsons Interfered With Public Rights 161

3. Albertsons Was Both a Cause-in-Fact and Proximate Cause of the Public Nuisance. 163

a. Substantial Factor Causation 164

b. Proximate Causation 174

4. The State's Abatement Plan Reflects the Appropriate Remedy and Must be Funded by Albertsons 181

B. Consumer Protection Act 189

1. Albertsons' Unfair Practices 192

a. Practices That Offend Public Policy 192

b. Immoral, Unethical, Oppressive, or Unscrupulous Practices 194

2. Albertsons' Unfair Practices Occurred in Trade or Commerce 195

3. Albertsons' Conduct Affected the Public Interest 198

4. CPA Remedies 200

a. Civil Penalties 200

i. Number of Violations 201

ii. Factors to Consider for Determining Penalty Amount 204

iii. Number of Violations and Penalty Amount 209

b. Injunctive Relief 210

c. Attorneys' Fees 212

IV. CONCLUSION 213

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

I. INTRODUCTION

The State of Washington is in the throes of an opioid epidemic that is so wide-reaching and damaging that it has impacted Washingtonians throughout the state. The opioid crisis has been an equal opportunity monster, bringing its destruction not only to urban areas, but to many small towns and rural areas throughout our state. All Washingtonians see and feel its impact – finding needles and other drug paraphernalia in parks; passing people in crisis in our parks and on our streets; riding on buses with people who are nodding off or smoking substances; having delays in our 911 response because of a system overtaxed by responding to drug overdoses; being victimized by opioid-related crime; and having stores struggle and close because of the challenges of running a retail operation amidst opioid crisis and its related criminal conduct; and reading obituaries of fellow citizens who have died too young.

This ongoing crisis has affected, and interfered with, public health, public safety, public spaces, and the day-to-day life of Washington residents to the point that any efforts to remedy it will necessarily be massive in size, scope, and time. With this action, Washington, by and through the Office of the Attorney General and its counsel, seeks recovery to abate this crisis and provide the state with the tools necessary to recover from this decades-long tragedy.

Based on the evidence presented at trial, the Court finds that Defendants Albertsons Companies, Inc. and Safeway, Inc. ("Albertsons") substantially contributed to the creation and maintenance of this public nuisance, and that the same years-long unfair acts or practices that contributed to the nuisance also violated Washington's Consumer Protection Act (CPA). More specifically, the nuisance in Washington was caused by an oversupply of opioids; Albertsons was a substantial factor in that oversupply when it shipped significant quantities of suspicious orders of prescription opioids into their own pharmacy stores without investigating or reporting those orders to the DEA, had diversion from its stores for improper use due to insufficient safeguards, and dispensed staggering quantities of opioid prescriptions that bore indicia ("red

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

flags") of diversion to patients and failed to conduct the required due diligence, in violation of its duties under both federal and state law.

Importantly, to protect against "diversion"—the unlawful transfer of prescription opioids obtained through legal medical sources to the illicit marketplace—the manufacture, distribution, sale, and dispensing of opioids are tightly controlled under the federal Controlled Substances Act (CSA). As described below, the statutory and regulatory framework mandate a "closed system" in which, in order to manufacture, distribute, or dispense opioids, a person or entity must register with the Drug Enforcement Administration (DEA). All registrants under the CSA (including Albertsons, which acts as both a distributor and dispenser of prescription opioids) are required to provide "effective" controls against diversion. Washington law has these same requirements, as well as additional regulations aimed at preventing the dispensing of prescriptions that were not written for a legitimate medical purpose.

As discussed in detail below, Albertsons was obligated to maintain such controls but failed to do so. The preponderance of evidence demonstrates that Albertsons never implemented and enforced policies or procedures that were effective at preventing the shipping of suspicious orders of prescription opioids to their stores, or the dispensing of "red flag" prescriptions from those stores, without the required due diligence. Moreover, Albertsons possessed, but routinely disregarded or ignored, information and tools that could have helped prevent diversion, choosing sales and profits over patient safety. In addition to evidence about the inadequacy of systems and procedures, the State presented evidence of specific instances when tens of thousands of opioid pills were diverted or inappropriately dispensed.

This disregard for the health and safety of Washington residents substantially contributed to the oversupply of opioids in the state, predictably and foreseeably contributing to the public

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

health crisis—the nuisance—for which the State now seeks to hold Albertsons accountable.[1] In addition, to increase its profits, Albertsons repeatedly violated the CPA by dispensing and distributing opioids in violation of federal and state law.[2]

The claims that were tried by the Court were the State's claims for public nuisance under RCW 7.48 and violations of the CPA.

As set forth in more detail below, and based on the foregoing, the Court finds in favor of the State and against Albertsons for the relief set forth herein.

II. FINDINGS OF FACT

The Court has considered all objections relating to the evidence supporting the findings contained herein and, to the extent such objections relate to evidence the Court cites in support of its findings, such objections were overruled at trial or are overruled with the issuance of these findings. Evidence that was admitted at trial for a limited purpose has been considered only for the purpose for which it was admitted. To the extent the Court excluded any evidence at trial, that evidence was not considered as a basis for the Court's findings and conclusions.

Each of the separate findings below was supported by competent and substantial evidence at trial. Where any evidence in the record conflicts with one of the findings, the Court

---

[1] To be clear, multiple factors have contributed to the opioid epidemic, including but not limited to the conduct of manufacturers in intentionally misleading the public and medical community, well-intentioned State policies and medical community guidance regarding the need to treat pain adequately, incompetent and rogue prescribers, other distributors and dispensers, some of whom likely have engaged in worse conduct and practices than Albertsons; however, the existence of other factors, even other substantial factors, does not excuse Albertsons' conduct.

[2] The State also asserted that Albertsons was a substantial factor because it incentivized its pharmacists to prioritize the volume of opioid prescriptions dispensed rather than customer safety. The court does not find that Albertsons' bonus structure was a substantial factor, or that there was evidence that pharmacists intentionally dispensed improperly in order to increase profits; however, Albertsons' overall prioritization of profits combined with failure to provide pharmacists necessary tools and sufficient staffing resulted in pharmacists improperly dispensing.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

has weighed the competing evidence and found that the greater weight of the evidence favors the facts set forth below.

To the extent that any statement or portion thereof denominated as a finding of fact is more properly considered a conclusion of law, then it should be treated as a conclusion of law. Conversely, if any statement or portion thereof denominated as a conclusion of law is more properly considered a finding of fact, then it should be treated as a finding of fact.

The scope of trial was set in part by the Court's prior orders on summary judgment, pretrial rulings as to experts, and motions in limine, which are incorporated herein by reference. Citations to specific evidence herein are merely illustrative and are not intended to reflect the entire body of evidence adduced at trial that supports the Court's findings and conclusions.

Based on the evidence and testimony presented at trial, the Court makes the following Findings of Fact and Conclusions of Law:

A. The Albertsons Defendants

1. Defendant Albertsons Companies, Inc. is a Delaware corporation with its principal place of business in Idaho.

2. Defendant Safeway, Inc. is a Delaware corporation with its principal place of business in California. In 2015, Albertsons acquired Safeway. It did so at a time when Safeway was subject to a DEA enforcement action based on Safeway's failure to timely report the diversion of over 104,000 opioid pills.

3. Haggen, Inc. is a Washington corporation with its principal place of business in Washington. In 2014, after Albertsons was required to divest approximately 168 of its stores in order to complete the Safeway acquisition, Haggen purchased approximately 146 of the stores, including 26 in Washington. The following year, Haggen filed for bankruptcy and Albertsons repurchased the Washington Haggen stores. Some stores in Washington retain the Haggen branding.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

4. Defendant Albertsons Companies, Inc. (individually and as successor in interest to Haggen, Inc.) and Defendant Safeway, Inc are collectively referred to as "Albertsons."

5. Albertsons has done business in Washington since the 1920s. As of the date the complaint was filed in this case, Albertsons operated more than 1,700 pharmacies in the United States under its various banners, including approximately 44 Albertsons pharmacies, 170 Safeway pharmacies, and 13 Haggen pharmacies in Washington.[3]

6. At all times relevant to this action, Albertsons dispensed and sold prescription opioids in Washington.

7. In addition to dispensing from its stores, Albertsons distributed prescription opioids to its own stores in Washington from 2006 to 2008 and 2013 to 2016.

B. Procedural History

8. On December 21, 2022, the State of Washington filed its complaint against Albertsons and several other chain pharmacies (now non-parties), alleging that Albertsons' misconduct in distributing and dispensing prescription opioids substantially contributed to the opioid crisis ravaging Washington, created a public nuisance, and violated the CPA. Dkt. 1 (Complaint).

9. At paragraph 64 of its answer to the State's complaint, Albertsons admitted "that it is responsible for its pharmacists' dispensing practices in Albertsons stores."

10. On June 1, 2026, the Court **DENIED** Albertsons' Motion for Summary Judgment on the State's Consumer Protection Claim. Dkt. 631.

11. On June 1, 2026, the Court **DENIED** Albertsons' Motion for Summary Judgment on the State's Public Nuisance Claim. Dkt. 632.

12. On June 1, 2026, the Court **GRANTED** the State's Motion for Partial Summary Judgment as to Albertsons' Duties Under Federal and State Laws Regarding the Dispensing and

[3] 8/13/26 am TT (Provenzano WA 30(b)(6) (9/9/25)) at 4743:11-20.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

Distribution of Controlled Substances. Dkt. 633. In granting the motion, the Court held, *inter alia*:

a. As condition of their authority to buy, sell, distribute, ship and dispense controlled substances in the United States, Albertsons is required by federal law to register with the federal DEA and undertake the duties prescribed by the federal CSA and DEA implementing regulations. 21 U.S.C. §§ 822, 824(d);

b. Among its duties as a dispenser of controlled substances under federal law, Albertsons was required to maintain effective controls against diversion of controlled substances. 21 C.F.R. § 1301.71(a). Specifically, Albertsons, as the corporate parent and owner of its pharmacies in Washington, must: (a) ensure that its stores dispense controlled substances, including opioids, only pursuant to legitimate prescriptions; (b) implement systems to identify prescriptions with red flags that the prescription is invalid or may be diverted; and (c) not fill opioid prescriptions without first resolving those red flags and document their efforts to resolve any red flags;

c. Washington law imposes the same duties on Albertsons as a dispenser;

d. Among its duties as a distributor of controlled substances under federal law, Albertsons Companies, Inc. was required to maintain effective controls to prevent diversion. These required controls must include, at a minimum, that Albertsons Companies, Inc.: (a) design and operate a system to identify suspicious orders; (b) report suspicious orders to the DEA; and (c) stop shipment of suspicious orders pending investigation and due diligence to allow it to determine that the order is unlikely to be diverted into illegal channels;

e. These same distribution-related duties were also required of Albertsons Companies, Inc. under Washington law.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

13. On June 1, 2026, the Court **GRANTED** in part and **DENIED** in part the State's Motion for Partial Summary Judgment as to Albertsons' Affirmative Defenses Based on But For Causation and Apportionment. Dkt. 636. In granting and denying the motion, the Court held:

a. The Motion is **GRANTED** with respect to the State's request that the Court conclude that the doctrine of substantial factor causation applies in this case;

b. If the State meets its burden of showing that Albertsons is a substantial factor in causing the public nuisance, the State does not need to prove or apportion statewide harms among Albertsons and other potential contributors to the opioid crisis;

c. Applying the substantial factor test in this case does not preclude Albertsons from presenting evidence regarding allocation; rather, if Albertsons' liability is established, the burden of apportionment falls on Albertsons;

d. The State, which seeks equitable abatement and related equitable remedies, is not required to prove that the epidemic would not have occurred "but for" Albertsons' conduct, nor is it required to allocate and trace statewide harms to other actors as a prerequisite to relief;

e. By agreement of the parties, the State's Motion to Strike Albertsons' Affirmative Defenses is **GRANTED** as to Affirmative Defense No. 23, but **DENIED** as to Affirmative Defenses Nos. 12, 13, 14, 15, 44, 45, and 46.

14. The First Amended Protective Order and the stipulation and order governing prescription-monitoring data prohibit the parties from identifying individuals in de-identified productions and from linking or cross-referencing the de-identified databases to other data sets. Dkt. 246 ¶¶ 14-16; Dkt. 254 ¶ 4; Dkt. 256 ¶ 4.

15. On June 26, 2026, the Court denied Albertsons' motion in limine to preclude the State from offering individualized evidence of diversion or harms, subject to the State's

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

representations that it would not use individualized diversion evidence not produced in discovery and that it "cannot offer evidence tracing any individual Albertsons prescription to a specific overdose or death." Dkt. 705 ¶¶ 1-2.

16. On August 27, 2026, the Court denied Albertsons' motion for judgment under CR 41(b)(3) at the close of the State's case, and on September 9, 2026, at the close of all the evidence, Albertsons renewed the motion, which the court denies.[4]

17. Claims against all other defendants have been settled and/or dismissed.

C. Background

1. Opioids and Their Addictive Properties

18. Opioids are a class of central nervous system depressant drugs that attach to receptors in the brain, spinal cord, and gastrointestinal tract and suppress function. There are several different opioids, including morphine, hydrocodone, oxycodone, oxymorphone, hydromorphone, tapentadol, buprenorphine, and methadone.[5]

19. The opioid medications at issue are FDA-approved, manufactured in quantities approved by the DEA, prescribed by State-licensed physicians, filled at Albertsons' pharmacies licensed by the State, and medically appropriate (even necessary) for certain patients suffering from pain.

20. While there are important beneficial uses for opioids, they are highly addictive, and once a patient starts opioid treatment, it can be difficult to stop using opioids.[6] Aside from overdose, long-term opioid use is associated with a significant increase in mortality from other causes.[7]

---

[4] 8/27/26 am TT at 6767:15-6768:2; 9/9/26 TT at 8163:21-8164:5.

[5] The drugs for which data was produced in this litigation include morphine, hydrocodone, oxycodone, oxymorphone, hydromorphone, tapentadol, buprenorphine, and methadone. *See* P-04107.

[6] 7/16/26 am TT (Duhigg) at 912:13-915:3.

[7] 8/17/26 pm TT (Miller) at 5054:13-21; 8/18/26 pm TT (Miller) at 5280:12-5281:6.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

21. Dr. Daniel Duhigg, D.O., a physician board-certified in general and addiction psychiatry, testified, and the Court finds, that opioids are among the most addictive substances precisely because they exploit the brain systems that evolved to ensure human survival. Pleasurable and reinforcing experiences activate the brain's reward circuit, and drive behaviors basic to human survival, such as eating and reproduction.[8] External opioids act on that same circuitry. Opioids are uniquely dangerous because the mu-opioid receptors that cover this circuit—whose natural "currency" is the body's own endorphins—bind equally to external opioids, whether oxycodone, heroin, or fentanyl. As a result, humans are uniquely vulnerable to opioid-related harms, including addiction and, independent of any addiction, accidental and fatal overdoses—even when opioids are taken as prescribed.[9]

22. Consistent with Dr. Duhigg's testimony and testimony of other witnesses, including Jodi Borrelli, the Court finds that opioid addiction develops through a predictable progression. Repeated use of opioids reinforces opioid-seeking because the user associates the drugs with reward or relief; meanwhile, the body adapts to the drug, which can cause an increasingly severe physiologic withdrawal syndrome—a cascade of adrenaline-driven symptoms so distressing that patients feel, and believe, they are dying, and "become quite desperate in that state"—when the drug is absent.[10] The combined effect is that the user eventually experiences continued opioid use as necessary for survival and uses opioids compulsively despite mounting harm to health, relationships, and functioning.[11] Because this progression is driven by exposure, the greater the supply of opioids available to a population, the greater the number of individuals who will develop Opioid Use Disorder (OUD).[12]

---

[8] 7/16/26 am TT (Duhigg) at 912:15-913:19.
[9] 7/16/26 am TT (Duhigg) at 912:15-913:19, 908:12-19, 915:4-14.
[10] 7/16/26 am TT (Duhigg) at 913:20-915:3.
[11] 7/16/26 am TT (Duhigg) at 913:20-915:3, 916:1-917:3.
[12] 7/12/26 am TT (Keyes) at 4475:19-25, 4478:2-9.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

23. As Jodi Borrelli, an addiction counselor and herself a survivor of opioid addiction, describes it, "[o]piates are like tentacles with barbed wire. Once they get ahold of you, escape is very difficult. Opiates become the air that we need to breathe. You can't function."[13]

24. Dr. Duhigg also testified, and the Court finds, that OUD is a medical disease, not a moral failing or a matter of will.[14] It is diagnosed under the Diagnostic and Statistical Manual of Mental Disorders (DSM) when a person meets two or more of eleven defined criteria within a twelve-month period and the person's relationship to the opioid is causing significant impairment or distress.[15] OUD, like all substance use disorders, is a chronic condition; it has no cure and requires long-term, often lifelong, management, a fact that bears directly on the reasonable resources necessary to abate the harm.[16]

25. Opioids carry heightened risks for certain vulnerable populations, including pregnant women,[17] babies,[18] children,[19] and older patients.[20]

26. While prescribed for pain relief, opioids also can cause respiratory depression[21]—slow and shallow breathing resulting in too much carbon dioxide and not enough oxygen inside the body—which can lead to heart attack, brain damage, coma, or death. This is the primary mechanism through which opioids have killed thousands of Washington residents, and hundreds of thousands of Americans.

---

[13] 8/6/26 am TT (Borrelli) at 3706:19-23.
[14] 7/16/26 am TT (Duhigg) at 928:5-24.
[15] 7/16/26 am TT (Duhigg) at 928:5-24.
[16] 7/16/26 am TT (Duhigg) at 928:25-929:9.
[17] 8/10/26 am TT (Fotinos) at 3929:6-11.
[18] 7/16/26 am TT (Duhigg) at 936:6-12.
[19] 7/16/26 am TT (Duhigg) at 936:20-937:3; 8/12/26 pm TT (Keyes) at 4572:3-19.
[20] 8/4/26 am TT (Zerzan-Thul) at 3241:9-3242:1.
[21] 7/13/26 TT (Covaci WA FACT depo (9/9/25)) at 195:21-23.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

2. Prescription Opioid Diversion and the Resulting Epidemic

27. Beginning in the late 1990s, the nation saw a rapid increase in prescription opioid overdose deaths,[22] heralding the onset of what is now known as the national "opioid epidemic."

28. On this matter, the Court heard from the State's expert epidemiologist, Dr. Katherine Keyes. Dr. Keyes received a Master's degree in Public Health and Ph.D. in Epidemiology from Columbia University.[23] Dr. Keyes' field of specialty is substance use and substance use disorders, as well as related comorbidity, focusing on psychiatric disorders, and consequences of substance use.[24] Dr. Keyes has published over 500 peer-reviewed articles, editorials, and book chapters, many of which are specific to opioid use and related harms and have been published in the leading, highest impact epidemiology, psychiatry, and substance use journals, including in *Pediatrics*, *JAMA Psychiatry*, *Lancet Psychiatry*, *Nature Communications*, *British Medical Journal*, *British Journal of Psychiatry*, *American Journal of Psychiatry*, *American Journal of Epidemiology*, and *International Journal of Epidemiology*.[25] The Court finds Dr. Keyes to be highly credible and persuasive.

29. Consistent with Dr. Keyes' testimony, the Court finds that the oversupply of prescription opioids played a *substantial* role in creating the opioid epidemic.[26]

30. Additionally, prescription opioids are diverted through forged prescriptions, robberies and thefts from pharmacies, and pills taken from the medicine cabinets of family members or friends.[27]

---

[22] 8/12/26 am TT (Keyes) at 4489:5-25 (discussing P-04162).
[23] 8/12/26 am TT (Keyes) at 4444:1-14; P-04225.
[24] 8/12/26 am TT (Keyes) at 4444:1-14; P-04225.
[25] 8/12/26 am TT (Keyes) at 4444:1-14; P-04225.
[26] 8/12/26 am TT (Keyes) at 4476:9-20, 4478:2-9, 4483:1-22; 8/13/26 TT am (Keyes) 4653:16-4654:6.
[27] P-00906; 9/1/26 pm TT (Provenzano) at 7289:21-7290:19; P-00486; 9/1/26 pm TT (Provenzano) at 7293:18-7294:23; 8/24/26 am TT (Wolf) at 5992:6-5993:5; 7/23/26 am TT (Berry) at 1745:17-1746:1; P-00473 at 0002; 8/4/26 pm TT (Massaad WA FACT depo (8/28/25)) at 3300:2-3302:21.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

31. As Dr. Keyes explained and the Court finds, the prescription opioid supply increased dramatically in the United States beginning in the 1990s, and a direct consequence of this increased opioid supply was: (1) an increase in the incidence and prevalence of OUD or "opioid use disorder," which is the medical term that encompasses both the popular conception of "addiction" as well as other opioid misuse among both medical patients and non-patients, and (2) an increase in prescription opioid-related deaths in the late 1990s and early 2000s.[28] Dr. Keyes testified credibly to the "dose-response relationship" between opioid supply and harms in Washington State, specifically the relationship between opioid supply and both OUD and opioid-related death. She testified credibly that the supply of prescription opioids is the dominant factor, the driver, in the opioid epidemic.

32. Dr. Keyes and other medical witnesses further explained that illicit drugs like heroin and fentanyl have similar pharmacological properties as prescription opioids.[29] The brain cannot tell the difference between prescription opioids, heroin, or illicit fentanyl, so there is the potential for substitution of one for the other when one is unavailable due to lack of supply or cost.[30] Related to that interchangeability, following the early 2000s, the epidemic transitioned, with heroin use being increasingly identified in opioid overdose deaths while prescription opioid deaths remained high; since approximately 2013, synthetic opioids (primarily fentanyl) have been increasingly identified in opioid deaths.[31] Heroin and fentanyl use and related OUD is closely tied to prescription opioid oversupply. Dr. Keyes and multiple other witnesses and exhibits, including Albertsons' own training materials, support a finding that 70 to 80% of illicit opioid users used opioid pills prior to using illicit opioids. This finding is also supported by credible testimony from treatment providers such as Brad Finegood, Jodi Borrelli, Dr. Allison

[28] 8/12/26 am TT (Keyes) at 4478:2-4479:11 (discussing P-04157), 4490:8-4492:1, 4499:9-4500:6 (discussing P-04166).
[29] 8/12/26 pm TT (Keyes) at 4581:11-16; 7/16/26 am TT (Duhigg) at 917:5-11.
[30] 8/12/26 am TT (Keyes) at 4487:22-4488:8; 7/16/26 am TT (Duhigg) at 917:5-18.
[31] 8/12/26 am TT (Keyes) at 4483:1-22 (discussing P-04160), 4484:5-4485:16.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

Berry and Dr. Catherine Smith that it is extremely common for their clients to report having started their opioid use with prescription opioids.[32] Often this switch is catalyzed by having their prescription cut off, having it become too expensive, or having an increased need that can no longer be met through prescriptions, at which point, in order to avoid excruciating withdrawal effects, the person seeks out illicit prescription opioids, heroin or, more recently, fentanyl.[33]

33. Albertsons' own internal documents include multiple acknowledgments that many individuals with OUD started with prescription opioids.[34]

34. The Court finds that the expansion of prescription opioid dispensing and distribution and availability laid the foundation for the increase in heroin and fentanyl adverse events and deaths,[35] and, critically, the rate of prescription opioid-involved mortality has remained significantly elevated up to the present day, in comparison to the rate prior to the onset of the epidemic in the 1990s.[36] From 2022 to 2024, approximately 7,400 Washingtonians died from opioid overdoses.[37] The volume of opioid sales correlated with opioid-related hospitalizations at a high degree, with each one morphine kilogram increase in opioid-related sales predicting a nine percent increase in opioid-related hospitalizations.[38]

35. There is persuasive evidence to support a finding like the one Judge Breyer made in the San Francisco case that "abuse of prescription opioids often leads to the use of illicit opioids, including heroin and fentanyl. As addiction becomes more severe, opioid users tend to seek out stronger, cheaper, and more potent opioids. The cycle of addiction is foreseeable." *City*

---

[32] TT 1745:4-8 (Berry); TT 3779:1-3780:6 (Smith); TT 2124:4-21(Finegood); TT 3960:10-14 (Borrelli).
[33] P-00279, p. 31.
[34] *Id.*
[35] 8/12/26 am TT (Keyes) at 4487:22-8 (discussing P-04161).
[36] 8/12/26 am TT (Keyes) at 4483:1-22 (discussing P-04160).
[37] P-04217.
[38] 4/12/26 pm TT (Keyes) at 4522:12-4523:13.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

& Cnty. of San Francisco v. Purdue Pharma L.P., 2022 WL 3224463, at *57 (N.D. Cal. 2022) (Breyer, J.).

36. Some individuals with OUD obtain prescription opioids by having multiple prescriptions simultaneously.[39] Obtaining multiple prescriptions for opioids in an overlapping period is referred to as "doctor shopping" or "pharmacy shopping" in the literature, and both doctor and pharmacy shopping are associated with substantial harm, including an increased risk of addiction and overdose given the higher dose and duration of prescription opioid use that occurs when multiple prescriptions are obtained with a lack of medical oversight.[40] This kind of "doctor shopping" or "pharmacy shopping" behavior can be identified and stopped when pharmacies engage in effective review of red flags.

3. The Opioid Crisis in Washington

37. The Court reviewed substantial evidence concerning the magnitude of the opioid epidemic in Washington and finds that the state has been consumed by the epidemic and remains in an ongoing crisis.

38. Consistent with the 2021-2022 Washington State "Opioid and Overdose Response Plan," the Court finds that Washington's "opioid crisis is a widespread problem that impacts individuals and their families, health and social service providers, behavioral health providers, school systems, community service providers (such as transportation and housing providers), and the criminal legal system (such as law enforcement, jails/detention centers, child protective services)."[41] It harms public health and safety and interferes with the comfortable enjoyment of life for all residents.[42]

[39] 8/5/26 am TT (Catizone) at 3449:19-3451:8, 3453:13-21.
[40] 8/5/26 am TT (Catizone) at 3449:19-3451:8, 3453:13-21.
[41] P-03157 at 0030.
[42] P-03157.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

39. The public health impacts of the opioid crisis are staggering. Dr. Keyes testified and the Court finds that, between 1999 and 2023, 19,250 Washingtonians died from opioid-related overdoses, and the death rate rose from 3.54 per 100,000 to 36.20 per 100,000.[43] Heroin and fentanyl deaths have also risen dramatically, with approximately 7,400 people within the State of Washington dying from opioid overdoses in 2022-2024.[44]

40. As evidenced by diagnoses of OUD in the Apple Health population, the crisis reaches all corners of the state and every age group.[45] As Dr. Judy Zerzan-Thul, Chief Medical Officer for Washington's Health Care Authority, testified, there are currently approximately 75,000 Apple Health clients receiving treatment for OUD.[46] In 2023, 3.4% of the state's population, or approximately 265,200 adults, suffered from OUD.[47] Additionally, as evidenced by the State Opioid Dashboards, opioid overdose deaths have increased among Washington adults in every age group since 2018.[48] In 2024 alone, 698 Washington residents fifty-five or older died of an opioid overdose.[49] The incidence of opioid overdose death in residents between the ages of sixty-five and seventy-four has almost doubled in the last two years.[50]

41. The Court finds that overdose deaths are only one of many harms resulting from the opioid epidemic.

---

[43] 8/12/26 am TT (Keyes) at 4511:4-4515:4; 8/12/26 pm TT (Keyes) at 4522:2-11 (discussing P-04247 at 0028).
[44] 8/12/26 am TT (Keyes) at 4487:22-8 (discussing P-04161); P-04217.
[45] P-03684 (MOUD Apple Health Dashboard by county); P-03685 (MOUD Apple Health Dashboard by demographic).
[46] 8/4/26 am TT (Zerzan-Thul) at 3237:17-22 (discussing P-03685).
[47] 8/12/26 am TT (Keyes) at 4511:4-4512:17.
[48] P-04215 at 001; *see also* 8/4/26 am TT (Zerzan-Thul) at 3241:12-3242:10 (discussing P-04215).
[49] P-04215 at 002.
[50] 8/4/26 am TT (Zerzan-Thul) at 3241:12-3241:1 (discussing P-04215 at 001).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

42. From 2019 to 2025, there were 74,062 emergency room visits for non-fatal overdoses in Washington.[51] Approximately 20,000 Washingtonians experienced one or more non-fatal overdoses in 2023, alone.[52]

43. Dr. Keyes testified, and the Court finds, that Washington's opioid overdose deaths track the nation's three waves: prescription opioids drove overdose deaths through the 2000s; heroin-involved deaths rose between 2011 and 2013 while prescription-opioid deaths remained high; and beginning in about 2018 and 2019, synthetic opioids, principally illicit fentanyl, "take off as a dominant driver of overdose death and an accelerant to obviously a catastrophic epidemic of overdose deaths."[53] Between 1999 and 2023, Washington's all-drug overdose death rate rose from 9.5 to almost 45 per 100,000 residents, and its opioid overdose death rate rose from almost 3.5 to over 36 per 100,000.[54] Thus, opioid overdose deaths constitute the vast majority (of this increase.

44. Washington's opioid crisis has also severely impacted children. Neonatal Abstinence Syndrome (NAS), where infants exposed to opioids in utero experience withdrawal symptoms after birth, more than doubled in Washington from 2008 (3.71 per 1000 births) to 2022 (10.61).[55] In 2022, this meant almost 900 children needed NAS-related care.[56] Due to in utero exposure and parental opioid use, Washington's children are expected to experience a high incidence of psychiatric and learning disorders such as depression/anxiety, PTSD, and ADHD.[57]

---

[51] P-04364 (Opioid and Drug Use Data Dashboard Statewide Non-Fatal Suspected Opioid Overdose ED Visits).
[52] 8/12/26 am TT (Keyes) at 4511:4-4512:17 (discussing P-04247 at 0028).
[53] 8/12/26 am TT (Keyes) at 4481:10-23, 4482:18-4483:25, 4484:5-4485:16 (addressing P-04158, P-04160, P-04161).
[54] 8/12/26 am TT (Keyes) at 4512:1-7, 4514:20-4515:4 (discussing P-04247 at 0028).
[55] 8/12/26 pm TT (Keyes) at 4523:17-4525:24 (addressing P-04164; P-04127 at 0030).
[56] 8/12/26 pm TT (Keyes) at 4523:17-4525:24 (discussing P-04164; P-04127 at 0030).
[57] 8/12/26 pm TT (Keyes) at 4526:25-4527:19.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

45. Consistent with the findings of the Department of Health (DOH), the Court finds that "[t]he implications of this [opioid use and overdose crisis] public health issue are much broader and best characterized in the context of a set of overlapping and interrelated epidemics and the larger societal circumstances that facilitate them, also known as a syndemic, of overdose and infections such as hepatitis C virus (HCV), HIV, and skin and soft tissue infections."[58]

46. As explained in more detail below, the State presented substantial evidence that Washington's opioid crisis has decreased public safety, increased criminal justice system costs, and strained the budgets of local governments and law enforcement.[59] The opioid crisis has also substantially impacted public spaces through increased homelessness, public drug use and overdoses, and through the improper disposal of used needles, drug paraphernalia, and other toxic waste in public parks, playgrounds, and libraries, making such areas less safe.

47. Smaller and rural Washington communities have also been impacted. Dr. Allison Berry, a family physician and the health officer for Clallam and Jefferson Counties, testified that Clallam County has "been hit incredibly hard by the opiate crisis," to the point that every commissioner on the county Board of Health has a family member who has struggled with addiction; that, when she began her work, the county had the highest opioid overdose death rate in the state; that a county task force now reviews every overdose death and found that for several years a large proportion of those deaths were people just released from jail; that the health department had to write the community's first naloxone standing order, supply naloxone to law enforcement, and place naloxone distribution boxes throughout the county; and that students at an alternative high school where she teaches already know what fentanyl is "because people in their families use it."[60] The Court finds Dr. Berry to be credible.

---

[58] P-03157 (State Opioid and Overdose Response Plan) at 0006.

[59] 8/6/26 am TT (Borrelli) at 3696:2-3697:15; 7/27/26 pm TT (Finegood) at 2124:22-2125:23; 8/6/26 pm TT (Smith) at 3778:9-3780:6; 7/23/26 am TT (Berry) at 1762:22-1763:14.

[60] 7/23/26 am TT (Berry) at 1736:3-18, 1741:3-13, 1758:17-1760:1, 1761:6-1763:14, 1764:1-25, 1765:1-9.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

48. The Court heard from numerous witnesses who testified that the opioid crisis is continuing to impact Washington communities in far-reaching ways, in private and public spaces, including with the ongoing and relentless challenges faced by individuals in recovery for opioid addiction.

49. For instance, the Court heard from Abigail Cooley, Director of the Everett Public Library, a position she has held since 2017.[61] Ms. Cooley testified that library staff regularly interact with individuals appearing intoxicated or under the influence of opioids—in some cases, unconscious—multiple times a week.[62] Ms. Cooley described multiple instances in which patrons at the Everett Library branches have overdosed and required the administration of Narcan to be revived.[63] She further testified that overdoses have occurred in the libraries' public spaces, in some cases in front of children, including one incident in which an individual passed away in an exterior doorway.[64] She further testified that evidence of drug use–syringes, burnt foil with residue, glass pipes, prescription pill bottles, and drug baggies—are regularly found on library property.[65] The Court finds Ms. Cooley to be credible.

50. The Court also heard from Dr. Joel Edminster, medical director for the Spokane fire department and the Spokane County Fire District No. 9 as well as a full-time ER doctor at Sacred Heart Medical Center.[66] Dr. Edminster is responsible for all EMS services for the Spokane fire department with the exception of Spokane Valley,[67] and oversees the EMS training, education, and oversight for fire department personnel.[68] He explained that the prescription opioid abuse that began expanding in the early 2000s was ultimately replaced by heroin, and

---

[61] 7/27/26 am TT (Cooley) at 2059:7-2060:10.
[62] 7/27/26 am TT (Cooley) at 2073:20-2075:5.
[63] 7/27/26 am TT (Cooley) at 2072:14-2074:4.
[64] 7/27/26 am TT (Cooley) at 2081:19-2083:25 (discussing P-04173).
[65] 7/27/26 am TT (Cooley) at 2075:6-2076:11.
[66] 7/15/26 am TT (Edminster) at 608:18-25.
[67] 7/15/26 am TT (Edminster) at 610:4-11.
[68] 7/15/26 am TT (Edminster) at 610:15-612:8.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

now predominantly fentanyl,[69] and that the large volume of calls for opioid overdoses negatively impacts the demands on the already-strained EMS system in Spokane.[70] He further explained how the opioid problem in the Spokane area impacts everybody, irrespective of social class or position.[71] According to Dr. Edminster the fire department's response to overdose calls requires a significant amount of EMS resources, including the use of Narcan to reverse respiratory failure.[72] He also described the efforts made by himself and others to expand treatment options.[73] The court finds Dr. Edminster to be credible.

51. The Court also heard from Brad Finegood. Mr. Finegood serves as a strategic advisor for Public Health, Seattle, King County, and holds a master's degree in community agency counseling with a specialty in addiction studies.[74] Mr. Finegood testified that the prevalence of prescription opioid abuse placed significant strain on drug court resources, particularly before Medicaid expansion,[75] and that programs consistently operate "beyond maximum capacity," with staff going "above and beyond" despite being underpaid and working in an understaffed system.[76] He testified that drug courts have a very positive impact but have not had sufficient funding and resources. The court finds Mr. Finegood to be credible.

52. The Court heard testimony from Michael Eggers, the Program Manager for the City of Seattle's Sharps Collection Program within Seattle Public Utilities' Clean City Division.[77] Mr. Eggers' testimony drew a direct, high-level link between visible public drug paraphernalia in public spaces (*i.e.*, discarded needles), and the municipal need for a dedicated

---

[69] 7/15/26 am TT (Edminster) at 624:15-626:18.
[70] 7/15/26 am TT (Edminster) at 613:2-614:18.
[71] 7/15/26 am TT (Edminster) at 624:15-626:18.
[72] 7/15/26 am TT (Edminster) at 613:2-618:17.
[73] 7/15/26 am TT (Edminster) at 618:19-624:14, 627:11-25.
[74] 7/27/26 pm TT (Finegood) at 2116:1-23.
[75] 7/27/26 pm TT (Finegood) at 2124:22-2125:23.
[76] 7/27/26 pm TT (Finegood) at 2173:11-24.
[77] 7/23/26 am TT (Eggers) at 1816:8-20.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

government response in Seattle. Mr. Eggers testified that the Sharps Collection Program was established as a pilot program in 2016, specifically because "a lot of people were noticing a lot of needles on the streets, in the public right-of-way."[78] The program has collected "over four million" needles from public spaces.[79] Mr. Eggers confirmed that a substantial percentage of the needles are believed to be used for illegal drug use, including heroin,[80] and often found alongside other drug-related materials, including foil, rubber bands, and broken glass pipes.[81] Mr. Eggers further testified that such discarded needles in public spaces pose significant health risks to the public, including in children's playgrounds and public sidewalks.[82] The Sharps Collection Program is a significant undertaking in Seattle and requires substantial resources, as Mr. Eggers testified it utilizes outreach, training, and 23 drop-off collection boxes located throughout the city, available at all times.[83] The Court finds Mr. Eggers to be credible.

53. The Court heard from Dr. Charissa Fotinos. From 2003 to 2013, Dr. Fotinos was the Public Health and Medical Director for Seattle and King County,[84] after which she worked for the Washington State Healthcare Authority (HCA), eventually becoming its Medicaid and Behavioral Health Director until late 2025.[85] During this time period, she also provided health services to people on the streets through mobile vans.[86] Dr. Fotinos testified credibly regarding numerous efforts undertaken by the HCA to intervene in the opioid crisis, including, *inter alia*, monitoring patients receiving opioid prescriptions, reviewing physician prescribing, covering buprenorphine, and working with existing Opioid Treatment Programs and Methadone clinics

[78] 7/23/26 am TT (Eggers) at 1817:23-1818:4.
[79] 7/23/26 am TT (Eggers) at 1837:24-1838:3.
[80] 7/23/26 am TT (Eggers) at 1839:19-25.
[81] 7/23/26 am TT (Eggers) at 1841:2-16.
[82] 7/23/26 am TT (Eggers) at 1818:1-12.
[83] 7/23/26 am TT (Eggers) at 1816:23-1817:9.
[84] 8/10/26 am TT (Fotinos) at 3932:16-19.
[85] 8/10/26 am TT (Fotinos) at 3936:3-10.
[86] 8/10/26 am TT (Fotinos) at 3931:24-3932:15, 3935:6-3936:2.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

across the state to expand access.[87] She also discussed the State's original 2016 opioid response plan, known then as the "Interagency Opioid Working Plan."[88] The four goals of the plan were: (1) to prevent opioid misuse and abuse; (2) treat opiate dependence; (3) prevent overdose deaths; and (4) use data to monitor trends in overdose, death and treatment.[89] The plan has been updated from time-to-time, with the most recent update occurring in 2021-2022.[90]

54. The Court heard from Jodi Borrelli, an addictions counselor for the Puyallup Tribal Health Authority, with six years of experience as a substance use disorder professional.[91] Through her own experience of opioid addiction and recovery, Ms. Borelli provided insight into the impact of the opioid epidemic on individuals who develop OUD in Washington. Ms. Borelli testified that she was unhoused due to her addiction from 2012-2016 across Snohomish, King, Pierce, and Cowlitz counties, and lived in numerous cities including Kelso, Longview, Puyallup, Tacoma, Bonney Lake, Auburn, Seattle, Federal Way, and Lynnwood.[92] She described living alongside "hundreds of other addicts" on the streets—in parks, under play structures, in church doorways, and in "traphouses" (drug houses marked by open drug use and criminal activity)—and characterized street life as "horrific," marked by intense trauma and violence.[93] She further testified that she and others committed crimes in order to obtain drugs, and described the violence and dangers of living on the street as someone with OUD.[94] Ms. Borrelli also observed widespread public opioid consumption, including individuals injecting in parks, public restrooms, and public transit, frequently leaving behind needles and other drug paraphernalia.[95]

---

[87] 8/10/26 am TT (Fotinos) at 3957:12-3959:4.
[88] 8/10/26 am TT (Fotinos) at 3970:17-3973:14 (discussing P-01448).
[89] 8/10/26 am TT (Fotinos) at 3974:7-3975:8 (addressing P-01448).
[90] 8/10/26 am TT (Fotinos) at 3976:6-21.
[91] 8/6/26 am TT (Borrelli) at 3678:9-18.
[92] 8/6/26 am TT (Borrelli) at 3691:20-3693:3 (discussing P-04226).
[93] 8/6/26 am TT (Borrelli) at 3693:4-3694:12.
[94] 8/6/26 am TT (Borrelli) at 3691:20-25, 3692:19-3693:6, 3694:1-8, 3696:2-3697:15.
[95] 8/6/26 am TT (Borrelli) at 3694:6-24.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

She also testified to observing many other individuals engaging in drug-related theft and public drug use across the state, creating widespread community harm.[96] She emphasized that opioid addiction does not discriminate by class or social status: "You can have money, you can live in a gated community and be a soccer mom and PTO president, and your life can be ruined from opioid addiction."[97] The Court finds Ms. Borrelli to be credible and her testimony courageous.

55. The Court also heard extensive testimony regarding the state's early identification of and response to the opioid crisis in Washington. As early as 2000, the Washington State Department of Labor and Industries (L&I), which oversees the Division of Occupational Safety, the Division of Labor Standards, and the Washington Workers' Compensation Program,[98] issued opioid prescribing guidelines and highlighted the absence of research supporting the efficacy of opioids in treating chronic pain.[99] By 2001 to 2002, the agency recognized an increase in prescription opioid overdoses in the worker's compensation population.[100] By 2003, drug take-back programs were in place in many locations.[101] In 2004, L&I sent an "Opiate Warning Letter" to every prescriber treating worker's compensation patients.[102] State employees then participated in drafting the peer-reviewed published article *Opioid Dosing Trends and Mortality in Washington State Workers' Compensation, 1996-2002* to alert others to the identified issues surrounding prescription opioids.[103]

56. While the State correctly holds up Dr. Mai and L&I as examples of Washington's early identification of the dangers of opioids and strong response, Dr. Mai and L&I were on the

---

[96] 8/6/26 am TT (Borrelli) at 3694:6-15, 3696:24-3697:15.
[97] 8/6/26 am TT (Borrelli) at 3680:25-3681:7.
[98] 7/30/26 am TT (Mai) at 2794:3-9.
[99] P-03627.
[100] 7/30/26 am TT (Mai) at 2872:1-11.
[101] P-03621 at 0003. Notably, in 2016 Albertsons declined to participate in King County's drug disposal program. P-00189.
[102] 7/30/26 am TT (Mai) at 2801:3-15, 2802:20-2803:14 (discussing P-04181).
[103] P-03630.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

forefront. Other State entities such as MQAC and PQAC and the Legislature were not as prompt in their response. Nevertheless, the record is clear that Washington, as a State, has been on the forefront of taking steps to address the opioid epidemic.[104] Even Albertsons' expert, Dr. Carise, acknowledged that "Washington's done a good job. . . . They have done some cutting-edge work."[105] Beginning the mid-2000s, the State undertook multiple efforts to address the opioid crisis as further described below.

57. In 2005, Medicaid implemented a Narcotic Review Program in which prescribers and pharmacies were contacted to help ensure that the prescriptions written and dispensed to Medicaid clients were appropriate.[106] The HCA also initiated the Medicaid Lock-In Program to restrict high-risk enrollees to the use of one prescriber and one pharmacy.[107]

58. In 2006, the State convened the Agency Medical Director Group (AMDG), a collaboration of agency medical directors and health policy staff to improve the healthcare of Washington citizens,[108] after research showed the increase in prescription opioid overdoses was occurring throughout the state, not just in the workers' compensation population.[109] In 2007, AMDG issued opioid prescribing guidelines stating that the total daily dose should not exceed 120 MME.[110] This was the first opioid prescribing guideline in the country to suggest limiting the daily dose of opioids.[111]

---

[104] P-03621.
[105] 9/1/26 am TT (Carise) at 7126:7-20.
[106] 8/10/26 am TT (Fotinos) at 3959:5-22; P-03621 at 0002.
[107] 8/10/26 am TT (Fotinos) at 3959:5-22; P-03621 at 0002.
[108] 7/30/26 am TT (Mai) at 2803:15-2804:11, 2872:17-2873:10.
[109] 7/30/26 am TT (Mai) at 2872:17-2873:10.
[110] P-03603.
[111] P-03621 at 0002

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

59. In 2008, the Department of Health created the Overdose Prevention Workgroup.[112] In 2009, the Emergency Department subgroup of this Workgroup drafted Opioid Prescribing Guidelines for use in Emergency Departments in the state.[113]

60. In 2010, Washington became the second state in the country to enact a naloxone-related Good Samaritan law.[114] The same year AMDG updated the Opioid Prescribing Guidelines.[115]

61. By 2011, the state created TelePain/ECHO to provide experts in the areas of pain management and addiction resources for prescribers.[116] The same year the Washington Chapter of the American College of Emergency Physicians adopted the Workgroup's Emergency Department opioid prescribing guidelines.[117] The following year, the Legislature required emergency departments in the state to adopt "7 Best Practices," including the Emergency Department opioid prescribing guidelines.[118]

62. By 2013, more than 100 state and local law enforcement agencies had drug drop-off sites.[119]

63. To a person, the state and local witnesses described their respective communities as underserved, and their programs or agencies as underfunded.[120]

---

[112] P-03621 at 0003.
[113] P-03621 at 0003.
[114] P-03621 at 0003.
[115] P-03724.
[116] 8/10/26 am TT (Fotinos) at 3962:17-3964:23; P-03621.
[117] P-03621 at 0003.
[118] P-03621 at 0003.
[119] P-03621 at 0003.
[120] 7/15/26 am TT (Edminster) at 618:19-624:14, 627:11-25; 7/27/26 pm TT (Finegood) at 2172:20-2173:10, 2173:11-24; 8/10/26 am TT (Fotinos) at 3977:4-8; 8/6/26 pm TT (Kirschbaum) at 3773:2-11; 8/4/26 pm (Zerzan-Thul) at 3292:15- 3294:19.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

64. The Court also heard from numerous state employees, who testified that various sectors of the state have been plagued by drug activity and crime as a consequence of prescription opioid diversion.

65. The Court found the above testimony highly persuasive. Washington and its residents have been deeply impacted and harmed by the ongoing opioid epidemic, despite Washington's efforts to respond to the problem.

D. Albertsons' Oversupply of Prescription Opioids Through Diversion

66. As explained in greater detail in the "Conclusions of Law," state and federal law impose express legal duties on distributors and dispensers of controlled substances. *See generally infra* Section III. Specifically, under the federal CSA, 21 U.S.C. §§ 801 *et seq*., the Washington Uniform Controlled Substances Act (WUCSA), RCW 69.50.101-.710, and both statutes' implementing regulations, pharmacies like Albertsons that distribute and dispense prescription opioids are required to maintain effective controls to prevent diversion of those dangerous drugs into illicit channels. Dkt. 633 ¶¶ 2-6.

67. As a *distributor* to its own retail pharmacies, Albertsons had a duty to identify and report suspicious orders of prescription opioids from its pharmacies and to halt shipments of such orders pending investigation. Dkt. 633 ¶¶ 5-6.

68. As a *dispenser*, Albertsons' duties have three key components: (1) ensure that its pharmacies dispense controlled substances for only "legitimate medical purposes"; (2) implement systems to identify prescriptions with indicators ("red flags") that the prescription may not be valid; and (3) not fill opioid prescriptions without first investigating, resolving, and documenting the pharmacist's efforts and rationale for dispensing in the face of those "red flags." Dkt. 633 ¶¶ 3-4. These duties apply not only to an individual store or pharmacist but also to Albertsons as the corporate owner. *Id*. In fact, in its answer to the State's complaint, Albertsons

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

conceded "that it is responsible for its pharmacists' dispensing practices in Albertsons stores."[121] The decision in *Holiday CVS, L.L.C.*, 77 Fed. Reg. 62,316, 62,341 (DEA Oct. 15, 2012),[122] affirms that the corresponding responsibility to ensure the dispensing of only valid prescriptions extends to the pharmacy itself and does not only apply to individual pharmacists.

69. For the reasons detailed below, the Court finds that Albertsons violated these duties and failed to guard against diversion as both a distributor and a dispenser of prescription opioids, resulting in substantial harm to Washington residents. Rather than adopting and enforcing corporate policies that would effectively prevent unlawful opioid distribution and dispensing, Albertsons as a corporation prioritized sales and profits and declined to undertake some measures that were available and would have reduced improper distribution and dispensing.

70. Moreover, based on the evidence presented at trial, the Court finds that Albertsons adopted policies and procedures that *discouraged and hindered* its pharmacists from reviewing opioid prescriptions before dispensing to determine whether they were for a legitimate purpose.

71. The Court finds that Albertsons' violation of its duties to guard against diversion of prescription opioids led to an oversupply of prescription opioids within Washington and substantially contributed to the opioid epidemic within the State of Washington.

1. Albertsons' Failures as a Dispenser to Comply with its Obligations Under the CSA and Washington Law

72. Albertsons owns and operates 44 Albertsons pharmacies, 170 Safeway pharmacies, and 13 Haggen pharmacies in Washington, all currently operating under the same

[121] Dkt. 61 ¶ 64.
[122] P-03109.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

national policies and procedures.[123] From 2006 to 2021, Albertsons pharmacies dispensed 690,464,294 opioid pills, giving it a 14.8% dispensing market share in Washington.[124]

73. Albertsons concedes it has a legal responsibility to prevent diversion of prescription opioids, that at all relevant times its pharmacists had a "corresponding responsibility" to ensure that the prescriptions they dispensed were for legitimate medical purposes, and that, to fulfill that duty, pharmacists needed to identify, investigate, and resolve "red flags" of diversion.[125] Albertsons' own policies define red flags as "circumstances surrounding the presentation of a controlled substance that does or should raise a reasonable suspicion as [to] the validity of that prescription."[126]

74. During the trial, numerous Albertsons employees, including pharmacists, pharmacy managers, and corporate executives, acknowledged both the existence of these duties and that they have remained constant over time, regardless of changing medical standards of care or pharmacy practices.[127] Albertsons did not present any credible evidence or argument to challenge the existence of these duties, and as noted above, the Court previously held these duties exist in its ruling on the State's Motion for Partial Summary Judgment as to Albertsons' Duties. *See* Dkt. 633.

---

[123] 8/13/26 am TT (Provenzano 30(b)(6) depo (9/9/25)) at 4743:11-20.

[124] 7/20/26 am TT (McCann) at 1124:21-1128:7 (discussing P-04104, P-04124).

[125] P-00944 (Albertsons Comprehensive Training on Dispensing Opioids and Other Controlled Substances for The Albertsons Companies Pharmacists) at 0003-12; 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 302:9-13; 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 407:5-408:15.

[126] DX1638 at 0066.

[127] 7/13/26 TT (Covaci WA FACT depo (9/9/25)) at 202:22-203:1; 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 302:9-13; 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 407:5-408:15; 7/27/26 am TT (Aitken WA FACT depo (8/22/25)) at 2049:8-11; 7/28/26 pm TT (Green 30(b)(6) (8/13/25)) at 2433:7-21; 7/29/26 am TT (Green) at 2619:16-19; 7/29/26 pm TT (Green) at 2705:16-2706:2; 8/4/26 pm TT (Massaad WA FACT depo (8/28/25)) at 3357:15-3358:8.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

75. At trial, Albertsons argued that pharmacies "are a mirror of what the doctors are doing. We reflect it."[128] But Albertsons' Director of Pharmacy Compliance from 2012-2015, Nikki Price, told a different story, explaining that "the pharmacist's job is separate and apart from the prescriber's job," and "[j]ust because the prescriber says fill, does not automatically mean that a pharmacist should fill."[129] Moreover, by merely acting as a mirror of what doctors are doing, the Court finds that a pharmacist is effectively abdicating his or her corresponding responsibility. Consistent with Ms. Price's testimony, all of the Albertsons pharmacist witnesses confirmed that the pharmacist's corresponding responsibility is separate and independent and always has been, and that resolution of red flags (whether that term was used or not) has always been required. Many of the pharmacists and many Albertsons documents also agreed that documentation of red flag resolution is required, though there was conflicting testimony as to what constitutes documentation. The Court finds Ms. Price to be credible in this regard. Multiple exhibits reflected that Ms. Price made substantial efforts to address compliance issues, even when she was not provided sufficient resources to do so.[130] Documents also reflect that Anthony Provenzano and others took compliance seriously and attempted to address perceived gaps.

---

[128] 7/13/26 TT (opening) at 91:5-7. One of Albertsons' themes, and a theme repeated by many of its witnesses, was that Albertsons' compliance practiced "evolved" over time as knowledge in the field and practices changed. While there was evolution, and evolution was appropriate, Albertsons' basic obligations did not change and, even as the State raised alarms and began trying to address the opioid epidemic, Albertsons chose to leave its pharmacies and compliance department understaffed in the face of repeated notice that staff were unable to meet obligations and failed to put in place necessary systems to prevent improper distribution and dispensing.

[129] 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 446:23-25.

[130] For example, in 2013, Ms. Price created and distributed a document titled "Appropriate Dispensing of Controlled Substances" which addressed red flags and documentation of their resolution, P-00324, and during Ms. Price's tenure and at her urging, in early 2015 Albertsons acquired the controlled substance rating tool that provided data to allow stores requiring further review to be identified and then did two Washington store reviews in 2015 Ms. Price worked alone for a period and then with one assistant to address compliance at 1000 Albertsons pharmacies.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

76. Marlee O'Neill, the Executive Director of Washington's Pharmacy Quality Assurance Commission (PQAC), testified that the Commission reminds pharmacists "that they have both a corresponding responsibility and a duty to fill," and that they "have to use their judgment and training to determine when to fill and when to refuse to fill."[131] The Department of Health's 2019 guide for pharmacists, which Ms. O'Neill described as an example of the Commission's guidance, put it this way: "pharmacists do have a corresponding responsibility for patient safety to use their professional judgment to determine what steps they should take to verify a prescription is for a legitimate medical purpose and legitimate patient."[132] According to Ms. O'Neill, "[p]harmacies have to ensure that they're providing the mechanisms for their pharmacists to carry out their duties," and "the pharmacy also has to allow the pharmacist to carry out that obligation."[133] The Court finds Ms. O'Neill credible.

77. On the topic of controlled substance dispensing and corresponding responsibility, the Court heard from the State's pharmacy expert, Carmen Catizone. Mr. Catizone received a Bachelor of Science degree in pharmacy and a Master of Science degree in pharmacy administration,[134] and was a licensed pharmacist from 1983-2025,[135] including 22 years as a dispensing pharmacist.[136] In 1988, he was appointed to serve as the Executive Director of the National Association of the Boards of Pharmacy (NABP), and served in that role for 32 years until 2020.[137] In that role, he worked with state boards of pharmacy across the country on a "daily basis," both advising the boards and providing testimony, representing the states before the FDA, the DEA, and other federal agencies, and providing information to states relating to regulatory

---

[131] 7/22/26 pm TT (O'Neill) at 1703:16-20, 1707:1-8, 1713:3-25.
[132] P-03673 at 0004; 7/22/26 am TT (O'Neill) at 1615:22-1616:20, 1618:1-12.
[133] 7/22/26 am TT (O'Neill) at 1618:13-18; 7/22/26 pm TT (O'Neill) at 1705:20-24.
[134] 8/4/26 pm TT (Catizone) at 3372:15-19.
[135] 8/4/26 pm TT (Catizone) at 3372:3-25.
[136] 8/4/26 pm TT (Catizone) at 3372:12-17.
[137] 8/4/26 pm TT (Catizone) at 3374:1-3377:2.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

or pharmacy practice issues.[138] His work with state boards of pharmacies included working with PQAC to develop guidance for pharmacists.[139] Dr. Catizone has been retained by and testified for the DOJ and DEA regarding issues in the pharmaceutical industry and testified before Congress regarding his work with the NABP.[140]

78. Christine Stoneback, who managed Albertsons' National Pharmacy Learning and Development team from 2017 to 2022,[141] and who provided training to Albertsons pharmacists, testified that Mr. Catizone is an "authoritative" "subject matter expert" on corresponding responsibility and red flags,[142] and that Albertsons eventually incorporated a video presentation hosted by Mr. Catizone into its training protocols for all new pharmacy hires.[143] The Court agrees with Ms. Stoneback and finds that Mr. Catizone is an authoritative subject matter expert on corresponding responsibility and red flags.

79. Mr. Catizone offered opinions concerning Albertsons' systemic failures to identify, investigate, and resolve red flags of diversion before dispensing controlled substances, and the risks created by those failures.

80. Albertsons attempted to undermine Mr. Catizone's opinions by pointing out that he was never licensed to practice pharmacy in Washington, had never dispensed controlled substances in the state, and had never served as a PQAC commissioner.[144] But Mr. Catizone testified, and the Court finds, that the standards of care governing controlled substance dispensing are national, not state specific.[145] And Mr. Catizone's 32 years as Executive Director

---

[138] 8/4/26 pm TT (Catizone) at 3376:19-3377:2.
[139] 8/5/26 pm TT (Catizone) at 3531:23-3532:10.
[140] 8/4/26 pm TT (Catizone) at 3387:14-3388:10.
[141] 8/3/26 pm TT (Stoneback WA FACT depo (9/11/25)) at 3143:25-3144:14.
[142] 8/3/26 pm TT (Stoneback WA FACT depo (9/11/25)) at 3154:11-3155:3.
[143] 8/3/26 pm TT (Stoneback WA FACT depo (9/11/25)) at 3144:25-3145:5.
[144] 8/5/26 pm TT (Catizone) at 3529:1-23.
[145] 8/5/26 am TT (Catizone) at 3410:10-14.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

of the NABP, including his work with PQAC, more than qualifies him to opine on the relevant standards of care.

81. The Court finds Mr. Catizone's testimony highly credible and persuasive.

82. As Mr. Catizone explained and the Court finds, prescriptions containing recognized red flags of potential diversion cannot be dispensed until those red flags are resolved and documented.[146] Albertsons and its witnesses agree.[147] In addition, the State offered into evidence various internal Albertsons' documents that confirmed the company's own understanding that documentation of a pharmacist's rationale supporting his or her decision to dispense in the face of a red flag was mandatory. *See infra* Section II.D.1.e.

83. Albertsons also concedes, and the Court finds, that red flags include, but are not limited to, patients who pay with discount cards, patients receiving high MME counts, patients who do not live near the specific pharmacy or doctor and travel great distances to obtain their prescriptions, patients who obtain opioid prescriptions from multiple doctors, patients obtaining certain drug cocktails that can be dangerous when taken together, patients seeking early refills, and other examples of drug seeking behavior.[148]

84. Notwithstanding that concession, during the relevant time period Albertsons failed to effectively identify, resolve, and document the resolution of these–and other–red flags that were apparent in opioid prescriptions that Albertsons dispensed. Moreover, the evidence

---

[146] 8/5/26 am TT (Catizone) at 3439:14-21, 3465:18-3468:9.

[147] 7/13/26 TT (Covaci WA FACT depo (9/9/25)) at 202:22-203:1; 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 302:9-13; 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 407:5-408:15; 7/27/26 am TT (Aitken WA FACT depo (8/22/25)) at 2049:8-11; 7/28/26 pm TT (Green 30(b)(6) (8/13/25)) at 2433:7-21; 7/29/26 am TT (Green) at 2619:16-19; 7/29/26 pm TT (Green) at 2705:16-2706:2; 8/4/26 pm TT (Massaad WA FACT depo (8/28/25)) at 3357:15-3358:8.

[148] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 689:12-14, 696:7-22; 7/13/26 TT (Covaci WA FACT depo (9/9/25)) at 191:6-21; 7/21/26 pm TT (Queen WA FACT depo (9/9/25)) at 1495:22-1497:5; 7/28/26 pm TT (Green 30(b)(6) depo (8/13/25)) at 2434:10-23; 8/5/26 am TT (Catizone) at 3445:8-3465:12; 8/5/26 pm TT (Catizone) at 3518:9-3519:14; *see also* P-04219 at 0006-0014.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

adduced at trial revealed, and the Court finds, that Albertsons failed to create, implement, and enforce the various systems and measures that could have enabled its pharmacists to fulfill their corresponding responsibility effectively. More specifically, Albertsons failed to implement or enforce sufficient red flag policies and procedures, failed to adequately staff its pharmacies, failed to establish an adequate compliance department to ensure the proper dispensing of controlled substances, failed to document the resolution of red flags, failed to prevent the dispensing of controlled substances prescribed by pill mill doctors, failed to prevent the loss and theft of controlled substances from its pharmacy locations, and set expectations to dispense a maximum number of prescriptions while preventing its pharmacists from being able to properly perform due diligence on controlled substances. *See infra* Sections II.D.1.a-j. These failures resulted in substantial harm to Washington and its residents.

85. Over the course of the trial, the State presented an abundance of highly probative evidence supporting these findings. In response, Albertsons called several of its current employees to testify live to attempt to rebut that probative evidence. The Court finds that the testimony of these employees on direct examination was often subjective in nature and contradicted by internal Albertsons documents that were presented during cross examination, by prior statements the witnesses had made, or by prior statements of other speaking agents of Albertsons. Broadly speaking, the Court finds Albertsons' internal documents and communications that were authored long before this lawsuit was filed to be far more telling and probative than much of the direct examination trial testimony presented by Albertsons.

a. Albertsons Failed to Implement or Enforce Sufficient Controlled Substance and "Red Flag" Policies and Procedures

86. Based on the below, and other evidence adduced at trial, the Court finds that during the relevant time period, via its lax policy language and/or its failure to implement and enforce its policies, Albertsons effectively did not require its pharmacists to investigate,

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

document, or resolve red flags before dispensing opioids. As to Safeway, there was a lack of policies and training regarding red flags and the need for resolution.

i. Red Flag Policies and Procedures

87. Prior to 2014, none of Safeway's dispensing policies even mentioned "corresponding responsibility" or "red flags."[149] While its pharmacy operations manuals from 2006-2009 broadly stated that "extra scrutiny must be used for Schedule II prescriptions and other controlled substances subject to abuse," the manuals said nothing about what "extra scrutiny" meant, or which controlled substances are subject to abuse.[150]

88. In 2014, Safeway's revised Best Practices and Procedures Manual made mention of red flags for the first time,[151] but the manual instructed that, in the event red flags are present, "or the totality of the circumstances otherwise creates the concern that there is a risk of abuse and/or diversion, the pharmacists *may* seek additional information" to verify the prescription's legitimacy.[152] In fact, Albertsons concedes all of the language in Safeway's updated manual surrounding red flags and controlled substances was ***permissive***, rather than ***mandating*** specific investigative processes.[153]

89. This is made all the more alarming by the fact that, by 2014, Albertsons' Director of Pharmacy Compliance conceded the extent of the opioid epidemic was already significant enough that a "sense of urgency [was] completely appropriate" when talking about corresponding responsibility, due diligence, and red flags.[154]

---

[149] 7/28/26 pm TT (Green 30(b)(6) depo (8/13/25)) at 2437:21-2439:6, 2467:17-19 (discussing P-00918).
[150] 7/28/26 pm TT (Green 30(b)(6) depo (8/13/25)) at 2441:1-11 (discussing P-00918), 2445:8-19.
[151] 7/28/26 pm TT (Green 30(b)(6) depo (8/13/25)) at 2467:9-19.
[152] P-04197 at 0067 (emphasis added).
[153] 7/28/26 pm TT (Green 30(b)(6) depo (8/13/25)) at 2464:4-24 (discussing P-04197).
[154] 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 445:6-13.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

90. Based on the above, and other evidence adduced at trial, Mr. Catizone testified that Safeway's pre-merger policies and procedures with respect to controlled substances failed to adequately prevent diversion or comply with industry standards. [155] The Court agrees and so finds.

91. Similar to Safeway, Albertsons had no formal policies or procedures identifying "red flags" for controlled substance dispensing prior to 2013.[156]

92. In 2013, Albertsons authored a two-page guidance document regarding red flags, but it was never implemented as a policy, and pharmacists could not be disciplined for failing to adhere to the policies expressed in the guidance.[157] And importantly, Albertsons did not incorporate red flags or guidance about how to respond to red flags into its formal policies and procedures that were released in November of 2013.[158] In fact, the term "red flags" did not appear in any official Albertsons policy or procedure until 2016 and, as with Safeway, the policies were filled with discretionary language, stating pharmacists "may" take certain actions in response to red flags instead of "must."[159] Accordingly, the evidence at trial identified no instances of any Albertsons personnel being disciplined or fired for failure to comply with their corresponding responsibility to identify red flags and document resolution thereof,[160] despite overwhelming evidence of such failures.[161]

93. Further, Albertsons never integrated a red-flag checklist into its dispensing software—a tool that could help pharmacists document the resolution of red flags—despite the

---

[155] 8/5/26 am TT (Catizone) at 3480:16-20.
[156] 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 410:2-411:4.
[157] 8/11/26 pm TT (Covaci NM 30(b)(6) depo (3/2/22)) at 4330:5-8.
[158] 8/19/26 pm TT (Covaci) at 5560:7-5567:19 (discussing P-00051 and P-00052).
[159] 8/5/26 am TT (Catizone) at 3475:21-3476:7; 8/11/26 pm TT (Covaci NM 30(b)(6) depo (3/2/22)) at 4320:19-4321:3, 4327:4-18 (discussing P-00053), 4330:18-4331:6.
[160] 9/8/26 am TT (Calmes) at 7971:2-9.
[161] *See infra* Section II.D.1.e.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

fact that Jessica Covaci, the then-Director of Pharmacy Compliance, asked for such a feature in 2020, and labeled it a "high" priority.[162]

94. Additionally, it took several years following the 2015 Safeway/Albertsons merger before the two pharmacies migrated to the same electronic dispensing systems so that pharmacists could see prior dispensing notes and fill histories across the pharmacy banners.[163] Through 2018, there was a lack of visibility between the Safeway and Albertsons stores.[164] This is especially problematic, as Albertsons agrees, because visibility between stores "prevents a patient from getting shut down at one store and going across town to other Albertsons or Safeway [pharmacies] and trying to get their [prescriptions] filled there."[165]

ii. Dispensing Data

95. In addition to the above shortfalls, Albertsons failed to timely require its pharmacists to check the available Prescription Drug Monitoring Program data (PDMP or PMP), which is a critical tool pharmacists can use in the prevention of diversion. PDMP is controlled substance dispensing data gathered from all other pharmacies that pharmacists can review when filling prescriptions for controlled substances.[166] A pharmacist reviewing a patient's PDMP can see a full history of all controlled substance prescriptions filled for that patient.[167]

96. Chris Baumgartner, former PDMP coordinator for the State of Washington,[168] explained that the data can help healthcare providers "make better-informed treatment decisions by being able to see the complete controlled substance history of the patients they're caring

---

[162] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 582:15-583:15, 585:12-587:5, 589:17-590:11 (discussing P-00515); 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 2 (8/29/25)) at 838:8-839:1.
[163] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 591:23-593:14.
[164] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 591:23-593:14.
[165] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 602:6-12.
[166] 7/14/26 am TT (Price WA FACT depo (9/3/25)) at 389:4-14.
[167] 7/28/26 am TT (Painter WA FACT depo (9/12/25)) at 2266:11-25.
[168] 7/28/26 am TT (Baumgartner) at 2289:1-2290:7.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

for."[169] Further, the PDMP program received "a lot of positive feedback" from healthcare providers who "found it very, very helpful in providing better treatment and care" to Washington patients.[170]

97. Albertsons' former Director of Pharmacy Compliance concedes that "pharmacists should check the PDMP," because it is a tool that "pharmacists can use to help them detect diversion."[171] For example, pharmacists can "look at the PMP and figure out if a patient has been visiting multiple prescribers," or "multiple pharmacies," which are a red flags.[172]

98. Mr. Catizone testified that dispensing data is "critical for the pharmacist to make the determinations required under their corresponding responsibility."[173] He also testified that pharmacy industry standards dictate that it is the corporation's responsibility to provide data to pharmacists to help them make determinations on individual patients, prescribers, or medications.[174]

99. Over time, the state medical and dental commissions, as well as the boards of nursing, podiatry, and osteopathic medicine, all mandated that their registrants check the PDMP before prescribing controlled substances.[175]

100. But while the PDMP became available to Washington pharmacists in January 2012,[176] Albertsons did not immediately require its pharmacists to gain access to it, or to check it before dispensing controlled substances.

---

[169] 7/28/26 am TT (Baumgartner) at 2286:1-14.
[170] 7/28/26 am TT (Baumgartner) at 2305:20-2306:3.
[171] 7/13/26 TT (Covaci WA FACT depo (9/9/25)) at 210:2-4 (discussing P-0624 at slide 12), 201:19-25; 7/14/26 am TT (Price WA FACT depo (9/3/25)) at 390:12-17.
[172] 7/13/26 TT (Covaci WA FACT depo (9/9/25)) at 202:1-9; 7/14/26 am TT (Price WA FACT depo (9/3/25)) at 389:15-390:2.
[173] 8/5/26 am TT (Catizone) at 3434:11-3435:3.
[174] 8/5/26 am TT (Catizone) at 3494:6-21.
[175] 7/28/26 am TT (Baumgartner) at 2302:8-21.
[176] 7/28/26 am TT (Baumgartner) at 2294:12-17.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

101. In August 2014, an Albertsons pharmacist emailed the then-Director of Pharmacy Compliance, Nikki Price, regarding the DEA conference she recently attended, describing it as "eye-opening and SCARY," and "pee your pants! Scary stuff," adding "[p]harmacy practice must change!" [177] One of the takeaways from the DEA conference that was conveyed to Ms. Price was that pharmacists "MUST MUST use PMP!!!"[178]

102. But despite PDMP data becoming available to pharmacists in January 2012,[179] and despite the above warning in 2014, Albertsons did not even *propose* requiring its pharmacists to check the PDMP before dispensing controlled substances until May 2018,[180] and did not require its pharmacists to register for and check the data until September 2018.[181] Even then, Jessica Covaci, the then-Director of Pharmacy Compliance, agrees the wording of Albertsons' PDMP policy was not a mandate to check the PDMP in all instances involving controlled substances.[182] In fact, according to Albertsons' Vice President of Pharmacy Compliance and Government Affairs, Anthony Provenzano, the language was "meant to be vague enough" to ***not*** require a PDMP check if the pharmacist did not want to do it.[183]

103. Albertsons' internal dispensing data systems and the PDMP are not the only dispensing data that were available to pharmacists and that could have provided a powerful weapon, if implemented, in Albertsons' efforts to prevent diversion.

---

[177] 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 434:9-435:2, 438:2-439:19, 451:11-19 (discussing P-00221) (emphases in original).
[178] 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 442:2-4 (discussing P-00221 at 0001).
[179] 7/28/26 am TT (Baumgartner) at 2294:12-17.
[180] 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 305:8-13 (discussing P-0467); 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 442:5-11.
[181] 8/11/26 pm TT (Covaci NM 30(b)(6) depo (3/2/22)) at 4332:11-4333:16 (addressing P-0054); *see also* 8/5/26 am TT (Catizone) at 3478:9-14.
[182] 8/18/26 pm TT (Covaci) at 5578:13-20, 5579:7-11, 5579:25-5580:3 (discussing P-0054), 5584:7-9.
[183] 8/18/26 pm TT (Covaci) at 5580:10-5583:11, 5583:19-5584:9 (discussing P-01048).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

104. For instance, Albertsons generated monthly Morphine Milligram Equivalent reports (MME reports) that would "essentially collect [data on] all the opioids filled across the book of business, calculate the daily MMEs, and that would be utilized to . . . identify potential flags for pharmacies that have higher MME patients [and] doctors that are prescribing higher MMEs."[184] But Albertsons did not even begin to generate these reports until 2019, well after the peak of the prescription opioid crisis, and specifically instructed its managers not to provide them to pharmacists.[185]

105. Further, as explained in greater detail below (*see* Section II.D.1.d), starting in 2015, a third-party vendor, known as IMS/IQVIA, provided Albertsons with a Controlled Substance Rating (CSR) tool that could identity pharmacies and prescribers that have higher than normal controlled substance usage and may warrant additional investigation.[186] But neither the pharmacists at Albertsons stores, the District Pharmacy Managers (DPMs) who acted as regional managers, nor the Directors of Pharmacy Operations (DPOs) who acted as the next level of supervision, had access to this tool.[187]

106. Ultimately, Mr. Catizone opined, and the Court finds, that Albertsons failed to provide critical information and tools to its pharmacists responsible for identifying and resolving red flags.[188]

---

[184] 7/15/26 am TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 570:2-15.

[185] 7/15/26 am TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 570:2-10; *see also* Section II.D.1.d.

[186] 7/13/26 TT (Covaci WA FACT depo (9/9/25)) at 217:6-13; 7/15/26 am TT (Aitken WA 30(b)(6) depo vol.1 (8/20/25)) at 557:20-25, 560:2-5.

[187] 7/13/26 TT (Covaci WA FACT depo (9/9/25)) at 218:23-220:1; 7/15/26 am TT (Aitken WA 30(b)(6) vol. 1 depo (8/20/25)) at 558:16-559:22; 8/3/26 pm TT (Stoneback WA FACT depo (9/11/25)) at 3114:2-3115:23; *see also* Section II.D.1.d.

[188] 8/6/26 am TT (Catizone) at 3643:12-24.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

iii. Discount Cards and Cash Payments

107. Albertsons also failed to timely restrict the use of discount cards and cash to pay for opioids and other controlled substances.

108. During the relevant time period, Albertsons and Safeway accepted discount cards, like "GoodRx" cards,[189] for prescription opioids, despite the fact that "discount cards can be used to inappropriately obtain controlled substance prescriptions,[190] and Albertsons was aware that "individuals [were] using cash or discount cards for questionable reasons."[191]

109. More specifically, customers could use discount cards to "get around insurance limitations" and "avoid scrutiny."[192] For instance, as of 2019, insurance companies were allowing for up to only 7 days for oxycodone, but customers could obtain 100 pills if they paid with a discount card.[193]

110. Albertsons acknowledged internally that this problem "[was]n't isolated to one part of the country . . . it's coast to coast."[194] In fact, Albertsons knew that by November 2019, 35% of the patients flagged in Albertsons' Controlled Substance Dispensing Reviews[195] were using discount cards, cash, or a combination of both, to pay for their controlled substance prescriptions.[196]

---

[189] 7/29/26 am TT (Green) at 2578:17-21.
[190] 8/19/26 pm TT (Covaci) at 5611:14-22.
[191] 8/19/26 pm TT (Covaci) at 5614:24-5615:2.
[192] 8/19/26 pm TT (Covaci) at 5628:9-20.
[193] 8/4/26 pm TT (Massaad WA FACT depo (8/28/25)) at 3306:22-3307:4, 3309:11-24 (discussing P-00544).
[194] 8/19/26 pm TT (Covaci) at 5624:21-5625:4, 5630:5-9 (addressing P-04280 at 006).
[195] *See infra* Section II.D.1.d for greater discussion of Albertsons' Controlled Substance Dispensing Reviews.
[196] 8/19/26 pm TT (Covaci) at 5631:7-15 (discussing P-04280 at 007).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

111. By December 2016, other chain pharmacies like Walmart and Walgreens had stopped accepting discount cards as payment for prescription opioids due to "problems and concerns" associated with their use for controlled substances.[197]

112. But in October 2019, Albertsons was only just *contemplating* adopting a policy "that would not allow customers to use discount cards or pay cash for controlled substances," and only "if they have an insurance plan that covers the medication."[198] By then, Albertsons was already aware that Walmart customers were migrating to Albertsons as a result of Walmart's policy to no longer accept discount card payments for controlled substances.[199]

113. As part of the deliberative process, Albertsons examined the volume of sales for controlled substances that were paid for with discount cards and cash.[200] The data was alarming. In a six-month period, Albertsons dispensed over 625,000 controlled substance prescriptions, totaling over $16.8 million, paid for with discount cards, and over 75,000 prescriptions, totaling over $3.3 million, paid for in cash.[201] In other words, Albertsons dispensed over 700,000 controlled substance prescriptions, totaling over $21.1 million, to customers paying with discount cards or cash, *in just six months*.[202] In the Seattle division alone, Albertsons recorded $2.6 million in sales of controlled substances, paid for with discount cards or cash, during this six month period.[203] This was second only to the Portland division, which includes stores in Washington.[204]

---

[197] 8/19/26 pm TT (Covaci) at 5612:15-23, 5623:19-5624:16 (addressing P-03409).
[198] 8/19/26 pm TT (Covaci) at 5613:7-25 (discussing P-00620).
[199] 8/6/26pm TT (Provenzano CT9 30(b)(6) depo (8/10/23)) at 3826:5, 3829:4-8, 3829:23-3831:7, 3833:14-3834:6 (discussing P-00003).
[200] 8/19/26 pm TT (Covaci) at 5614:3-18 (discussing P-00620).
[201] 8/19/26 pm TT (Covaci) at 5615:22-5616:7, 5617:12-25 (addressing P-04252).
[202] 8/19/26 pm TT (Covaci) at 5617:12-25 (addressing P-04252).
[203] 8/19/26 pm TT (Covaci) at 5618:1-15 (addressing P-04252).
[204] 8/19/26 pm TT (Covaci) at 5618:1-15 (addressing P-04252).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

114. In response to these numbers, Mr. Provenzano emailed his colleagues, writing "[w]ow!," to which Ms. Covaci replied, "[y]ikes, I thought it was going to be bad, but that is more than I thought."[205] Mr. Provenzano then wrote, "[t]rying to think of ideas to 'soften' this a bit."[206]

115. By July 2020, roughly 10 months later, no changes to Albertsons' policies on accepting discount cards or cash for controlled substances had been made.[207] That same month, Anthony DalPonte, Albertsons' then-Vice President of Pharmacy Operations, wrote, "I don't think we can wait any longer from a Compliance perspective . . . we are really concerned with their [Good Rx's] lack of concern around the opiate epidemic."[208]

116. Albertsons' Vice President of Pharmacy Compliance confirmed that, between 2006 and 2022, Albertsons never prohibited the sale of prescription opioids to individuals paying with discount cards.[209] To this day, Albertsons still accepts discount cards and cash payments for controlled substances, claiming (even though its competitors do not accept discount cards for controlled substances) that Albertsons is "contractually obligated to accept discount cards by our [PBM] contracts."[210]

117. The Court does not find compelling Albertsons' claim that its contractual obligations prohibited it from rejecting discount card payments for controlled substances, as Albertsons presented no testimony as to why its competitors were able to cancel or modify such provisions in their own PBM contracts, or whether Albertsons actually attempted to do so. Moreover, contractual obligations do not relieve Albertsons of its obligations to comply with state and federal law.

---

[205] 8/19/26 pm TT (Covaci) at 5618:25-5619:16 (discussing P-04252).
[206] 8/19/26 pm TT (Covaci) at 5620:18-5621:11 (discussing P-04253).
[207] 8/19/26 pm TT (Covaci) at 5637:14-5638:3, 5638:10-5639:1 (addressing P-04279).
[208] 8/19/26 pm TT (Covaci) at 5639:22-5640:6 (discussing P-04279).
[209] 9/1/26 am TT (Provenzano) at 7210:25-7211:3.
[210] 7/16/26 pm TT (Provenzano NM FACT depo (2/10/22)) at 1043:22-1044:3.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

* * *

118. As with Safeway, Mr. Catizone testified,[211] and the Court likewise finds, that Albertsons' policies and procedures with respect to controlled substances failed to comply with industry standards.

119. Albertsons' expert witness, Dr. Katherine E. Wolf Khachatourian, disagrees. At trial, Dr. Wolf was critical of the red flags that were identified by Mr. Catizone and used as the basis of his and Dr. McCann's analyses.[212] For each red flag, Dr. Wolf presented hypothetical scenarios in which legitimate prescriptions could trigger those flags.[213] The Court found this testimony unpersuasive for several reasons. First, the State has never alleged that red flags are dispositive; *i.e.*, that the existence of one or more red flags *necessarily* means that the controlled substance in question is being diverted. Rather, red flags are *indicia* of diversion that require additional scrutiny. Thus, the fact that some prescriptions with red flags may ultimately be legitimate does not undermine the State's allegations. Second, whether Albertsons pharmacists should have strictly adhered to "Mr. Catizone's red flags" or simply relied on their professional judgment, the evidence shows that in most cases—whether due to lax policies, understaffing, a total lack of training, or increased pressure to fill more prescriptions[214]—Albertsons pharmacists failed to exercise any meaningful judgment or at least failed to document their exercise of judgment, suggesting that they largely ignored their corresponding responsibility.[215] Finally, Dr. Wolf's criticism ignores Albertsons' failure to timely institute *any* meaningful policies on red flags or corresponding responsibility until well after the surge and oversupply of prescription opioids into Washington communities.

---

[211] 8/5/26 am TT (Catizone) at 3478:15-23.
[212] 8/25/26 am TT (Wolf) at 6257:18-6272:23.
[213] 8/25/26 am TT (Wolf) at 6257:18-6272:23; *see also* 8/20/26 pm TT (Gilligan) at 5842:12-5854:4 (describing legitimate scenarios that could nevertheless trigger red flags).
[214] *See* Sections II.D.1.a-c, f.
[215] *See infra* Section II.D.1.e.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

120. Further, Albertsons' counsel repeatedly painted the red flags identified by Mr. Catizone and used in his analysis as "made-for-litigation,"[216] and argued that "you won't find the State's red flag list anywhere outside this court."[217] The Court finds this equally unpersuasive. Mr. Catizone identified 14 individual red flags for use in his and Dr. McCann's expert analyses.[218] Dr. Wolf criticized these flags as "sort of black-and-white expectations that do not consider what else could be going on with specific prescriptions or the specific patients."[219] But the record shows that Albertsons' ***own*** red flag policies closely mirror, and are nearly identical to those identified by Mr. Catizone.[220] And Ms. Price, Director of Pharmacy Compliance from 2012 to 2015, confirmed that the nearly identical flags in Albertsons' policies were "always" red flags.[221]

121. Throughout the trial, Albertsons' counsel, as well as its witnesses, attempted to diminish the importance of red flags, by referring to them as "potential" or "possible" red flags.[222] The implication being that red flags do not, on their own, trigger a pharmacist's duty to investigate, resolve, and document, but that there is some intermediary step that pharmacists must undertake to determine whether the "potential" red flag is an actual red flag, and only then, determine whether the duty has been triggered. As Dr. Wolf put it, "a pharmacist could

---

[216] 7/13/26 TT (opening) at 135:5-6, 135:25-136:5.
[217] 7/13/26 TT (opening) at 136:13-14.
[218] 7/20/26 am TT (McCann) at 1136:6-1137:10 (discussing P-04127).
[219] 8/24/26 am TT (Wolf) at 6044:11-14.
[220] *Compare* P-04127 nos. 1-2 (traveling 25 miles or more to pharmacy and/or prescriber) *with* P-00051 (residing outside locale of store and/or prescriber), P-00204 (15 miles), P-00522 (8 miles), P-00955 (25 miles); P-04127 no. 3 (doctor shopping) *with* P-00051 (multiple prescribers); P-04127 no. 4 (pharmacy shopping) *with* DX1859 at 0008 (multiple pharmacies); P-04127 nos. 5-8 (drug cocktails) *with* P-00051 (combinations and cocktails); P-04127 nos. 9, 10, 13 (excessive MMEs) *with* P-00051 (large quantities); P-04127 no. 11 (pattern prescribing) *with* P-00051 (pattern prescribing); P-04127 no. 12 (refills more than 5 days early) *with* P-03823 at 0023 (4-7 days early); P-04127 no. 14 (cash payment) *with* P-00051 (cash payment).
[221] 8/26/26 pm TT (Price) at 6575:6-7.
[222] *See*, *e.g.*, 8/19/26 am TT (Covaci) at 5420:16-21, 5425:18-20, 5461:24-5462:1; 9/8/26 am TT (Calmes) at 7906:24-7907:3.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

[absolutely] initially spot a potential red flag and then come to the conclusion that it's not a red flag at all."[223] However, the record shows that, unlike "Mr. Catizone's red flags," it is *this* distinction that appears to have been made for litigation. Albertsons' witnesses, including its experts Dr. Wolf and Dr. Christopher Gilligan, confirmed that red flags trigger a pharmacist's duty to conduct due diligence, without first having to be distinguished from "potential" red flags.[224] Further, Albertsons' red flag policies and procedures made no mention of "potential" or "possible" red flags.[225] And the purported intermediary evaluative process Dr. Wolf describes as being necessary to confirm an actual red flag is the same process Mr. Catizone and other witness described as due diligence, through which a pharmacist may clear a red flag. The Court agrees with this description. On the other hand, Albertsons' attempts to recast red flag due diligence as an earlier, intermediary step necessary to identify "actual" red flags, and therefore as something that does not require documentation, is not persuasive and is rejected by the Court.

122. Albertsons also defended its nearly non-existent controlled substance policies and procedures during the early years of the relevant period, and their unreasonably slow growth thereafter, by arguing that the risks associated with prescription opioids were not well known until the latter half of the relevant time period. As noted below, *see infra* Section II.D.1.d, Albertsons' Director of Pharmacy Compliance from 2012 to 2015, Nikki Price, testified that when she headed up the compliance program in 2012, "at that time, I don't think anyone truly recognized what was truly happening."[226] The Court did not find this argument credible or consistent with other portions of Ms. Price's testimony.

---

[223] 8/25/26 am TT (Wolf) at 6196:1-4.

[224] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 725:19-24; 8/26/26 pm TT (Price) at 6575:6-7; 8/20/26 pm TT (Gilligan) at 5858:9-20; 8/25/26 am TT (Wolf) at 6231:15-19.

[225] *See*, *e.g.*, 8/19/26 pm TT (Covaci) at 5560:14-5561:2 (discussing P-00051 at 0002); DX1858 at 0010.

[226] 7/14/26 am TT (Price WA FACT depo (9/3/25)) at 378:10-16. This is a rare instance when the Court did not find Ms. Price credible.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

123. By 2001, the United States Congress was already conducting hearings on OxyContin abuse, during which it was emphasized that "prescription drug abuse is a growing national problem."[227] In 2003, the Government Accountability Office published a report on "OxyContin Abuse and Diversion and Efforts to Address the Problem," which stated, "the abuse of OxyContin is associated with serious consequences, including addiction, overdose, and death."[228]

124. Meanwhile, in 2000, L&I issued its Guidelines for Outpatient Prescription of Oral Opioids for Injured Workers with Chronic, Noncancer Pain.[229] Those Guidelines included a direction to follow certain principles: single prescribing physician, single pharmacy, lowest dose possible, and a warning to be on the lookout for the appearance of misuse of opioid medications.[230] In February 2004, Ms. Mai and her team sent a warning letter out to all the providers in L&I's system,[231] and in 2005, the team published their findings in a peer-reviewed study in order to raise awareness.[232]

125. The February 2004 warning letter, citing a 2003 study from the New England Journal of Medicine, stated, "[w]hereas it was previously thought that unlimited dose escalation was at least safe, evidence now suggests that prolonged, high dose opioid therapy may be neither safe nor effective."[233] Further, "[L&I] has also identified deaths between 1995-2002, associated with overdose of prescription opioids, particularly oxycodone and methadone. The majority of deaths have occurred since 1999."[234] According to the letter, L&I also verified two patterns

---

[227] 7/14/26 am (Price WA FACT depo (9/3/25)) at 378:17-22, 386:23-388:14, 388:23-389:3 (discussing P-00800 at 0002, 0007).
[228] P-00802 at 0007.
[229] P-03627.
[230] P-03627at 006.
[231] 7/30/26 am TT (Mai) at 2801:11-2802:19 (addressing P-04181).
[232] 7/30/26 am TT (Mai) at 2801-2802:19 (discussing P-03630).
[233] P-04181 at 001.
[234] P-04181 at 001.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

related to the deaths: (1) "[a] dramatic (~40%) shift from Schedule III to Schedule II opioids"; and (2) "[a] dramatic increase in average daily [MME] dose of long acting opioids from approximately 80mg/day in 1997 to over 130 mg/day in 2001."[235] Finally, "both DEA-reported and [L&I] opioid-related deaths also have had evidence of multiple prescription drug use, including use of benzodiazepines, tricyclic anti-depressants, and muscle relaxants."[236]

126. In 2006, Ms. Mai and other state agency medical directors formed Washington's AMDG.[237] AMDG partnered with a Washington Department of Health epidemiologist, Dr. Jennifer Sabel, to look at opioid deaths statewide.[238] Their research showed that the increase in prescription opioid overdoses was occurring throughout the state–not just in Washington's Workers' Compensation population.[239]

127. In 2007, AMDG released its first opioid dosing guideline.[240] The guideline stated, "[i]n general, the total daily dose of opioids should not exceed 120 [MMEs]," except in "rare" circumstances, and "only after pain management consultation."[241] The Guideline also reiterated principles expressed earlier by L&I noting opioids should be prescribed by a single prescriber, filled by single pharmacy, be for the lowest possible dose, and that opioids should not be combined with benzodiazepines.[242]

128. Albertsons' own expert, Dr. Gilligan, confirmed that the "pendulum swung" from overprescribing to something "more restrictive in terms of amounts dispensed" at least as far

---

[235] P-04181.
[236] P-04181.
[237] 7/30/26 am TT (Mai) at 2803:15-2804:11, 2872:17-2873:10.
[238] 7/30/26 am TT (Mai) at 2872:17-2873:10.
[239] 7/30/26 am TT (Mai) at 2872:17-2873:10.
[240] 7/30/26 am TT (Mai) at 2804:5-11 (discussing P-03603).
[241] P-03603 at 0003.
[242] P-03603 at 0004.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

back as 2007.[243] And Mr. Provenzano testified that Albertsons first determined there was an opioid problem "towards the middle of latter half of the 2000s."[244]

129. In 2008, the Washington State Pharmacy Association, a professional trade association in Washington, hosted a meeting that was attended by Albertsons' DPM Christine Stoneback (then Christine Wyatt). Albertsons internally discussed the takeaways from the meeting, including that "there are more opiate related deaths from prescriptions that illicit drugs," "Washington leads the country in Rx robberies," and "watch for red flags, follow [AMDG] guidelines."[245]

130. In 2010, AMDG updated its opioid dosing guidelines to include, *inter alia*, new "[t]ools for calculating dosages of opioids during treatment and when tapering," and "[v]alidated screening tools for assessing substance abuse, mental health, and addiction."[246] Albertsons' expert witness, Dr. Deni Carise, acknowledged Washington was doing "cutting-edge work" in responding to the opioid crisis.[247]

131. Also, starting at least as far back as 2010, the DEA began traveling the country, speaking to pharmacists, and stressing their role and responsibility as it relates to the opioid epidemic, and specifically about corresponding responsibility.[248] The "DEA road shows" featured Joe Rannazzisi, who headed the DEA's Office of Diversion,[249] and who emphasized that "prescription drug abuse is the fastest growing drug problem in the U.S.,"[250] and "[p]harmacists are the last bastion of hope."[251] Mr. Provenzano, Albertsons' Vice President of

---

[243] 8/20/26 pm TT (Gilligan) at 5906:24-5907:18.
[244] 8/13/26 am TT (Provenzano WA 30(b)(6) depo (9/9/25)) at 4745:19-4746:3.
[245] P-00473 at 0002.
[246] 7/30/26 am TT (Mai) at 2805:19-2806:7; P-03724 at 0001.
[247] 9/1/26 am TT (Carise) at 7126:7-20.
[248] 8/19/26 pm TT (Covaci) at 5549:8-19.
[249] 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 440:12-21.
[250] 8/19/26 pm TT (Covaci) at 5553:1-7 (discussing P-00220 at 0100).
[251] 8/19/26 pm TT (Covaci) at 5550:22-5552:5 (addressing P-00220 at 0098).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

Pharmacy Compliance, testified that he never attended these road shows, and never heard from his colleagues who were in attendance about the DEA's focus during these presentations.[252] But Ms. Covaci testified that she had attended these "DEA road shows" multiple times before becoming Director of Pharmacy Compliance.[253] And other Albertsons personnel were attending the road shows and emailing the presentation slides back to their colleagues at least as far back as 2011.[254]

132. In light of the above evidence, Albertsons' claim that the dangers of prescription opioids were not well known in the early days of the epidemic is not credible.

133. Albertsons' failure to adopt and enforce meaningful, timely controlled substance dispensing policies and procedures is the basis for the Court's finding that Albertsons was a substantial factor in the State's opioid crisis. The State's expert, Dr. McCann, analyzed Albertsons' dispensing data, along with ARCOS data, and revealed dangerously high levels of opioid dispensing from Albertsons pharmacies, including the dispensing of prescriptions written by pill mill doctors. Dr. McCann's analysis shows, and the Court finds, that between 2006 and 2022, Albertsons dispensed over 640 million opioid pills into Washington,[255] including over 6.5 million opioid prescriptions (or 61.6% of all opioid prescriptions) that triggered one or more commonly accepted red flags.[256]

134. Albertsons' internal records demonstrate that its Washington pharmacists did not generally investigate, resolve, or document these red flags indicating possible diversion. In fact,

[252] 9/1/26 pm TT (Provenzano) at 7264:18-21, 7266:4-7.
[253] 8/19/26 pm TT (Covaci) at 5549:20-5550:3.
[254] 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 452:24-454:7 (discussing P-00011).
[255] 7/20/26 am TT (McCann) at 1114:22-1116:14 (discussing P-04107).
[256] 7/20/26 am TT (McCann) at 1135:5-1141:13 (discussing P-01405).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

Albertsons failed to sufficiently document due diligence to verify a prescription's legitimacy 96% of the time.[257]

135. Mr. Catizone testified that if the resolution of a red flag is not documented, it was not resolved.[258] The Court finds that to be an overstatement, but does agree with Dr. Catizone's further opinion that Albertsons' failure to resolve red flags, and to document the resolution of red flags, likely led to the diversion of opioids within Washington.[259] The systemic and almost complete failure to document resolution of red flags, in combination with the specific instances of Albertsons dispensing to known drug dealers, to individuals other pharmacies were refusing to fill, to prescribers other pharmacies were refusing to fill, and in volumes that are so extreme as to be obvious, amounts to credible circumstantial evidence that Albertsons pharmacists dispensed a significant volume of opioids that should not have been dispensed and directly contributed to the opioid epidemic in Washington. To put it another way, if Albertsons had had a system in place, and adequate staffing, to ensure that red flags were being resolved and their resolution documented (as Albertsons' own trainings and policies required), many fewer opioids would have been improperly dispensed.

136. As part of its defense at trial, Albertsons noted that it had not been reprimanded by PQAC, and in any event, PQAC never issued its own list of red flags. The Court did not find either argument persuasive.

137. Regarding PQAC's decision never to issue an exhaustive list of red flags,[260] Ms. O'Neill, PQAC's executive director, cited the range of entities it regulates: "[t]here are many different settings in which pharmacists practice and dispense opioid prescriptions, so there is just

---

[257] 7/20/26 am TT (McCann) at 1168:20-1170:13; 8/5/26 am TT (Catizone) at 3505:9-25, 3507:3-9; *see also infra* Section II.D.1.e (discussing Albertsons' failure to document).
[257] 8/5/26 pm TT (Catizone) at 3608:6-13.
[258] 8/5/26 pm TT (Catizone) at 3608:6-13
[259] 8/5/26 pm TT (Catizone) at 3511:8-13.
[260] 7/22/26 am TT (O'Neill) at 1619:2-4.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

no way the commission could put together an exhaustive list that would encompass every facility type and situation that a pharmacist could possibly encounter."[261] And Albertsons needed no such list from PQAC. Albertsons' Washington pharmacies operate under the same national policies and procedures, and Albertsons itself identified the red flags its pharmacists were to identify. *See supra* FOF ¶¶ 72-85.

138. Regarding PQAC's alleged lack of any formal admonition, the Court found this equally unavailing. PQAC is charged with regulating "the practice of pharmacy" in the state.[262] Retail pharmacies, like Albertsons, are a small part of what it oversees. Ms. O'Neill testified that PQAC licenses about 5,300 facilities.[263] Only 1,183 are "pharmacies," a category that includes retail pharmacies, and that is fewer than one in four of the entities PQAC oversees.[264]

139. PQAC's oversight of that field is periodic and complaint-driven. Investigations begin with a complaint, and the Commission opens several hundred each year.[265] It aims to inspect each facility once every two years but does not always succeed.[266] An inspection is "a snapshot in time," and "[i]nspections are not enforcement."[267] Its investigators may access PMP data only as part of a lawfully authorized investigation of a specific complaint.[268]

140. On September 11, 2017, members of Albertsons' compliance department met with PQAC to provide "an overview of [Albertsons'] compliance program and controlled substance initiatives," and Mr. Green described the meeting as "a positive meeting."[269] The meeting occurred one week before the four-month suspension of the North Bend pharmacy under

---

[261] 7/22/26 am TT (O'Neill) at 1619:5-12.
[262] 7/22/26 am TT (O'Neill) at 1605:8-13.
[263] 7/22/26 am TT (O'Neill) at 1609:8-13, 1613:16-19.
[264] 7/22/26 am TT (O'Neill) at 1612:1-7.
[265] 7/22/26 am TT (O'Neill) at 1620:7-9, 1623:3-14.
[266] 7/22/26 am TT (O'Neill) at 1620:19-25.
[267] 7/22/26 am TT (O'Neill) at 1621:1-8; 9/3/26 pm TT (O'Neill 30(b)(6) depo (4/11/25)) at 7787:2-7.
[268] 7/22/26 am TT (O'Neill) at 1624:16-23; 7/22/26 pm TT (O'Neill) at 1687:20-25.
[269] 7/29/26 pm TT (Green) at 2729:1-2730:13 (addressing DX3139).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

Safeway's agreement with the DEA began.[270] Nothing in the record shows that Albertsons provided PQAC with its dispensing data, its red-flag rates, or the findings of its store reviews. In April 2018, an investigator for the Department of Health's pharmacy program (now PQAC), working on "a case involving early refilling of controlled substance prescriptions and prescription forgery," asked whether Safeway had "any type of good faith dispensing checklist for the pharmacists to use documenting their QA checks for the validity of a controlled substance prescription."[271] Albertsons sent her its training document on appropriate dispensing of controlled substances, and she replied, "That's perfect. Thanks."[272] The investigator did not testify, and there is no evidence that she examined how Albertsons' pharmacies applied that guidance in practice.

141. Albertsons pointed to two PQAC investigations of Safeway pharmacists as evidence that the Commission pursued pharmacists who refused to fill opioid prescriptions.[273] Neither shows that. In the 2006 case, a Gig Harbor pharmacist dispensed a patient's Vicodin. She held a tramadol prescription, "a legend drug," to clarify it with the prescriber, and the prescriber's partner then cancelled it. The investigator wrote that "there did not appear to be any violation."[274] In the 2007 case, a Kirkland pharmacist declined to fill a Tylenol with codeine prescription. The insurer had rejected both DEA numbers given for the prescriber, and he could not verify the prescriber's registration. He offered two or three tablets at no charge to carry the patient over until the next morning.[275] No disciplinary action was taken against him.[276] The Gig Harbor pharmacist was disciplined later, but not for refusing to fill. In 2009 she stipulated that

---

[270] P-00916 at 0004.
[271] DX1614 at 0002; 7/29/26 pm TT (Green) at 2731:4-2732:16.
[272] DX1614 at 0001; 7/29/26 pm TT (Green) at 2732:17-2734:13; 8/27/26 am TT (Price) at 6683:21-6684:18.
[273] 9/14/26 pm TT (closing) at 8317:4-11.
[274] DX0632 at 0002-0004.
[275] DX0635 at 0002, 0004-0006; 7/22/26 am TT (O'Neill) at 1630:20-1631:7.
[276] P-04119; 7/22/26 am TT (O'Neill) at 1632:1-22; 7/22/26 pm TT at 1643:24-1644:4.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

between approximately May and September 2008 she diverted hydrocodone tablets from five Safeway pharmacies, including approximately 260 tablets from the same Gig Harbor store.[277]

142. Simply put, the Court did not find the lack of any formal rebuke of Albertsons' dispensing practices by PQAC to be probative on the question of whether Albertsons' pharmacies fulfilled their corresponding responsibility.

143. Based on the above, the Court finds that Albertsons failed to timely implement and/or enforce sufficient policies and procedures to properly identify red-flagged prescriptions, failed to resolve and document the resolution of those red-flags, and failed to prevent the diversion of prescription opioids for illicit purposes in the State of Washington.

b. Albertsons Failed to Properly Staff its Pharmacies

144. The Court also finds that Albertsons failed to properly staff its pharmacies during the relevant time period, and that failure resulted in harm to the State of Washington.

145. Mr. Catizone explained, and the Court finds, that without adequate staff, pharmacies can put patients at a "significant risk" by not having pharmacists with time to actually review prescriptions, conduct due diligence, counsel patients, or fulfill their other responsibilities as a pharmacist.[278] For this reason, "[i]nadequate staffing is a major cause for those problems."[279] "It could result in controlled substance prescriptions being filled and dispensed that are not legitimate, and those prescriptions could make their way and be diverted outside of the control system."[280]

146. Albertsons' DPM (the equivalent of a regional manager) for pharmacy locations in Seattle and the surrounding areas for most of the relevant time period, Ms. Stoneback, conceded there were "periodic issues with understaffing of these stores," and that "it was pretty

---

[277] P-03678 at 0002; P-03679; 7/22/26 pm TT (O'Neill) at 1641:7-1642:12, 1645:21-1646:6, 1647:10-1648:15.
[278] 8/5/26 pm TT (Catizone) at 3428:6-3429:1.
[279] 8/5/26 pm TT (Catizone) at 3428:6-3429:1.
[280] 8/5/26 pm TT (Catizone) at 3428:6-3429:1.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

constant that at least one or more stores were having a problem being understaffed" during her time as DPM.[281]

147. But the evidence adduced at trial shows that even the above concession severely understates the magnitude of Albertsons' staffing crisis. Albertsons' entire model for staffing allocation was tied to the number of prescriptions dispensed by Albertsons pharmacists.[282] Thus, for overwhelmed, understaffed stores, Albertsons did not provide any additional labor unless those stores increased their prescription volume, resulting in less time for staff to conduct controlled substance due diligence.[283] As Albertsons' DPM Cliff Amend explained, "[t]he end goal for everything we ask is to make profit, plain and simple . . . We use script count as a way to speak about labor dollars and in reality, it is directly tied to sales and profits."[284]

148. The "periodic" and "constant" staffing problems described by Ms. Stoneback were not isolated incidents, limited to a small number of pharmacies in one geographic area, as Albertsons contended. Indeed, the State of Washington offered substantial evidence which established that not only were Albertsons' pharmacies perpetually understaffed, but that this shorthandedness resulted directly from Albertsons' policies and the abysmal working conditions they produced. The voluminous communications from Albertsons' beleaguered pharmacy staff, reviewed and considered by the Court, span a large number of stores, spread all across the state, over many years, which belies any notion that the problems were isolated. The communications did not raise minor issues but extreme situations and often noted the pervasiveness of the issue.

149. For instance, in 2014, the pharmacy manager of Store 406 in Gig Harbor reported being "stressed out," having "work overload," "really needing more help," having a "tech schedule [that] is stretched thin," a "to-do list just [that] grows and grows instead of shrinking,"

---

[281] 7/27/26 am TT (Stoneback WA FACT depo (9/11/25)) at 2103:9-19 (discussing P-00993); 7/27/26 pm TT (Stoneback WA FACT depo (9/11/25)) at 2197:6-18.
[282] *See* Section II.D.1.f.
[283] *See* Sections II.D.1.f.
[284] 8/13/26 am TT (Amend WA FACT depo (7/1/26)) at 4701:25-4703:13 (discussing P-03895).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

being "forced to stay after close," and "barely hav[ing] time to eat and think thru the basic checklist to keep us compliant and functioning."[285]

150. In 2015, the pharmacy manager for Store 1687 in Washougal likened the "need to tighten the labor budget" to "get[ting] more blood out of a stone."[286]

151. In November 2016, the pharmacy manager of Store 246 in Spokane emailed her DPM, Robert Queen, writing "we are drowning! At this time there is nothing we can do but try to survive and get through every difficult work day. I cannot work any harder and cannot stay longer than I already am."[287] The next month, the same pharmacy manager emailed Mr. Queen and reported "leav[ing] work every day hyperventilating, with chest pains and heart palpitations from the stress," "it is not physically or mentally possible for me to continue to work this hard," and "[n]ot just me, all of my staff are working in a chronically stressful environment and it is not fair!"[288]

152. In February of 2017, the pharmacy manager of Store 1704 in Vancouver, Washington, wrote to her supervisors, Ms. Stoneback and Amanda Yu, that "[t]he expectation of working 12 hour shifts (for the pharmacist) without breaks and filling one prescription every 3 minutes with bare minimum support is affecting our entire pharmacy staff," and that "[o]ur lines and wait times have never been longer."[289]

153. In April 2018, the store manager of Store 3545 in Milton complained to his superiors that "the lack of staffing in our [pharmacy] continues to be an issue . . . the staffing

---

[285] 8/3/26 pm TT (Stoneback WA FACT depo (9/11/25)) at 3092:18-3094:25 (discussing P-00986).
[286] P-00474.
[287] 7/22/26 am TT (Queen WA FACT depo (9/10/25)) at 1530:13-1531:5 (discussing P-00970, P-04222 (store locations)); *see also* 8/6/26 pm TT (Provenzano CT9 depo (8/10/23)) at 3869:7-17 (addressing P-00888 ("Paul, we are absolutely drowning. We need help. I feel like closing the doors.")).
[288] 7/29/26 pm TT (Green) at 2757:4-2758:18 (addressing P-00977).
[289] P-00989 at 0002; P-04222 at 0010; 8/3/26 pm TT (Stoneback WA FACT depo (9/11/25)) at 3109:13-3110:19, 3112:16-20.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

level is creating unsafe working conditions and will result in upset customers and critical mistakes."[290] In a follow-up email, the pharmacy manager wrote, "[i]ndeed, the most recent reduction in pharmacy labor hours have created a very stressful working condition within the pharmacy."[291] "In my opinion, these high stressful working conditions, certainly increase the chance of potential misfills and rx errors."[292] Two years later, in May of 2020, Store 3545 attributed mistakes made verifying a prescription to overburdened and understaffed stores: "Many patients are frustrated at this store and it appears compliance is lacking with increased metric demands. Perhaps the lack of any breaks of lunches for the pharmacist increase the risk of verifying prescriptions accurately."[293]

154. In 2019, the pharmacy manager of Store 91 in Longview wrote his superiors to inform them that "we worked hard to meet the staffing goals outlined by Safeway. During that time we also experienced a number of prescription errors . . . I am deeply concerned about reducing to prior levels."[294]

155. In May 2019, the pharmacist at Store 1472 in Mount Vernon wrote to the Seattle Division's human resources manager, in an email forwarded to Mr. Green, that "Cliff has emphasized on many occasions that the DV (data verification) process should be completed in less than 30 seconds. It's is [sic] impossible to DV and query PMP within that standard. We regularly have days with 40 or more CII prescriptions alone."[295] Mr. Green testified that Albertsons had no company standard for data-verification time, but he did not send any

---

[290] 8/13/26 pm TT (Provenzano WA 30(b)(6) depo (9/9/25)) at 4800:7-4801:21 (discussing P-00286).
[291] 8/13/26 pm TT (Provenzano WA 30(b)(6) depo (9/9/25)) at 4802:4-4803:9 (discussing P-00286).
[292] 8/13/26 pm TT (Provenzano WA 30(b)(6) depo (9/9/25)) at 4802:20-4803:11 (addressing P-00286) (cleaned up).
[293] P-00240 at 0001.
[294] P-00885 at 0003.
[295] P-04057 at 0001.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

communication telling pharmacists to disregard the direction [to complete in less than 30 seconds].[296]

156. In July 2021, the pharmacy manager of Store 1294 in Kent informed his DPM that "[t]here are not enough hours in the day for us to perform all these tasks . . . We are forced to work without breaks or lunch."[297]

157. In December 2021, a pharmacist from Store 1484 in Everett emailed the then CEO of Albertsons, stating "99% of the days I do not even get to eat and sometimes I don't even get to use the bathroom because we are so shorthanded."[298] The same pharmacist claimed that due to the 11-12 hour shifts, "mistakes can easily be made to put someone's life at risk."[299]

158. Albertsons' undermanned pharmacists and pharmacy managers regularly described to their superiors the physical and mental toll the work was taking on them, complaining of exhaustion,[300] "vomit[ting] due to exhaustion, dehydration, and hunger,"[301] of "br[eaking] down in tears in the back,"[302] and of feeling like "we are all stretched out like rubber bands that are about to snap."[303]

159. Mr. Queen, the DPM of numerous Washington pharmacies from 2015 to 2021, acknowledged that Albertsons' pharmacy labor goals were "unrealistic," that the workloads were "unsustainable," and that Albertsons corporate was "unsympathetic" to the untenable workloads for its pharmacists.[304] But when Mr. Queen told management that, due to workload, pharmacy

---

[296] 7/29/26 am TT (Green) at 2577:7-23, 2580:4-2581:25.
[297] P-00296.
[298] 7/29/26 pm TT (Green) at 2604:10-15 (discussing P-00305).
[299] 7/29/26 pm TT (Green) at 2604:16-22 (discussing P-00305).
[300] *See*, *e.g.*, 7/29/26 am TT (Green) at 2549:2-6, 2552:25-2553:8 (discussing P-01260 at 0002 (Store 538, Port Townsend) ("Everyone is exhausted")).
[301] 8/11/26 pm TT (Nelson WA FACT depo (9/3/25)) at 4298:7-10 (addressing P-00439 (Store 3317, Port Orchard)).
[302] *See*, *e.g.*, 7/29/26 am TT (Green) at 2552:16-2553:8 (discussing P-01260 at 0002).
[303] 7/29/26 am TT (Green) at 2547:2-7 (discussing P-01262 (Store 1522, Arlington)).
[304] 7/22/26 am TT (Queen WA FACT depo (9/10/25)) at 1553:4-22, 1554:16-19.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

staff was unable to properly conduct due diligence on controlled substances, the response was that he was "hiring the wrong people."[305] And despite acknowledging these unrealistic and unsustainable goals, in 2019 Mr. Queen formally reprimanded the pharmacy manager of Store 2639 in Pullman when the pharmacy manager exceeded her labor allocation.[306]

160. This was consistent with the casual indifference, and at times, overt hostility, that Albertsons showed towards its overworked and overwhelmed pharmacy staff. In 2019, one of Albertsons' DPOs, Stephen Certo, emailed his DPMs regarding what he saw as disproportionately low dispensing in individual stores despite exceeding their weekly labor allocations, writing, "Are you kidding me? This is not acceptable . . . This is embarrassing."[307] "So again., I will call out your continued poor performers who are on the list every week in hopes that maybe someday you can get them under control."[308] One of the DPMs responded by claiming "[t]he struggling teams seem to have poor talent."[309]

161. The Court finds that laying blame on the quality of the pharmacy staff was a consistent response to labor-related complaints. In one illustrative instance from 2015, when confronted with a series of emails from a pharmacy manager describing "dysfunction," burdensome hours, staff working overtime without extra pay, mishandled hydrocodone supplies, and a belief that "this [labor] model has resulted in public health and regulatory deficiencies,"[310] Ms. Stoneback, former DPO for the region, refused to acknowledge the obvious staffing problems, and instead suggested that the *pharmacy staff* was "not optimal."[311] And rather than seeing anything "problematic" in the emails, Ms. Stoneback only saw "opportunity,"[312] and

---

[305] 7/22/26 am TT (Queen WA FACT depo (9/10/25)) at 1560:8-21.
[306] 7/22/26 am TT (Queen WA FACT depo (9/10/25)) at 1547:10-1549:6 (discussing P-00974).
[307] P-00889 at 0002.
[308] P-00889 at 0002.
[309] P-00889 at 0001.
[310] 8/3/26 pm TT (Stoneback WA FACT depo (9/11/25)) at 3101:9-3104:7 (addressing P-04194).
[311] 8/3/26 pm TT (Stoneback WA FACT depo (9/11/25)) at 3104:8-3107:14.
[312] 8/3/26 pm TT (Stoneback WA FACT depo (9/11/25)) at 3104:8-3107:14.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

refused to acknowledge that overwhelmed employees are generally more likely to make mistakes than those who are not overwhelmed.[313]

162. Over time, Albertsons' pharmacy managers learned that asking for more staffing-hours was "futile" and "impossible."[314] Further, despite numerous complaints regarding the lack of lunch breaks for the pharmacists, Mr. Green, Albertsons's DPO for the Seattle division, repeatedly expressed opposition to closing the pharmacies so that the pharmacy staff could have a brief, uninterrupted lunch break.[315] Mr. Green remained opposed through May 2022, even as Albertsons learned that other nearby pharmacies were providing half-hour lunch breaks to their pharmacy staff.[316] Mr. Green wrote to the higher-ups that "I wanted to make sure I was leading this correctly in that I do not support closing for lunch."[317] When Albertsons relented and began instituting lunch breaks in the fall of 2022, this overdue act of mercy did not even extend to all its pharmacies.[318]

163. Albertsons' ongoing staffing shortages did not go unnoticed by the State. In October 2021, the Department of Health issued a Statement of Deficiencies (SOD) for Store 419 in Port Orchard, listing numerous deficiencies, including "facility staffing."[319] In response, Albertsons noted internally that "everything is either directly or indirectly related to workload, which is obviously a concerning issue right now."[320] In fact, the SOD was alarming enough that Albertsons' compliance team held an internal meeting to review the deficiencies noted in the

---

[313] 8/3/26 pm TT (Stoneback WA FACT depo (9/11/25)) at 3108:17-24.
[314] P-01260 at 0002 ("I am NOT asking for more hours. I read your email and know that is futile."); P-01262 at 0002 ("Ideally, we can use more hours but that seems impossible at this point.").
[315] 7/29/26 am TT (Green) at 2608:20-2609:17.
[316] 7/29/26 am TT (Green) at 2609:18-2613:2 (discussing P-00456).
[317] 7/29/26 am TT (Green) at 2612:18-2613:2 (discussing P-00456).
[318] 7/29/26 am TT (Green) at 2613:16-2614:12.
[319] 7/28/26 am TT (Painter WA FACT depo (9/12/25)) at 2232:19-21, 2238:17-2239:22 (discussing P-00397 at 0016).
[320] 7/28/26 am TT (Painter WA FACT depo (9/12/25)) at 2248:11-16 (discussing P-00397 at 0001).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

report, from which the takeaway was that "the overwhelming issue that's highlighted by the different deficiencies raised within that report . . . relate to workload and staffing."[321]

164. In September 2022, nearing the end of the relevant time period, the Department of Health again identified "facility staffing" in a SOD, this time for Store 2734 in Kirkland, writing, "[b]ased on document review and staff interview, the pharmacy or pharmacist failed to staff appropriately. Failure to staff appropriately may result in substandard patient care and subsequent patient harm." [322]

165. Importantly, the correlation between understaffed stores, overworked employees, and increased risk to patients was not unknown to Albertsons. Mr. Provenzano, Albertsons' 30(b)(6) corporate representative, agreed that the consequences of poor working conditions include the pharmacist's "inability to properly identify or resolve red flags,"[323] and that "[w]orking conditions can always -- in any situation can result in prescription misfills."[324] He also conceded that "lack of sufficient labor in a pharmacy" can be a "causative factor" in "pharmacists not being able to devote sufficient time to investigate and resolve red flags on opioid prescriptions."[325] Similarly, Mr. Certo, one of Albertsons' DPOs, conceded that insufficient time allocation can and sometimes will result in errors, including failing to spend sufficient time conducting controlled substance due diligence.[326] And Albertsons' own internal document states that the "[d]ownstream effects of poor working conditions may include patient

---

[321] 7/28/26 am TT (Painter WA FACT depo (9/12/25)) at 2248:11-2249:2 (discussing P-00397).
[322] 7/28/26 am TT (Painter WA FACT depo (9/12/25)) at 2222:25-2226:20 (discussing P-00314).
[323] 8/13/26 pm TT (Provenzano WA 30(b)(6) depo (9/9/25)) at 4808:18-22.
[324] 8/13/26 pm TT (Provenzano WA 30(b)(6) depo (9/9/25)) at 4803:12-15.
[325] 8/13/26 pm TT (Provenzano WA 30(b)(6) depo (9/9/25)) at 4803:21-4804:23.
[326] 8/6/26 pm TT (Certo WA FACT depo (8/19/25)) at 3873:12-24.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

safety incidents."[327] Albertsons' expert, Dr. Wolf, concedes that "stressful conditions can make you make worse decisions."[328]

166. Despite that acknowledgment, Dr. Wolf testified that she reviewed the testimony of Albertsons' witnesses, as well as Albertsons' "prescription volumes," and on that basis, determined that Albertsons' labor model was "completely appropriate"[329] and Albertsons' pharmacies were "adequately staffed."[330] Dr. Wolf's testimony was conclusory and was not supported with robust evidence or analysis, and was based on her misunderstanding of an Albertsons' internal report. Specifically, Dr. Wolf testified that she "review[ed] data" from 2016 showing that just 5-6 "prescriptions per hour" were being filled at Albertsons' pharmacies.[331] But when pressed on that testimony, Dr. Wolf admitted that she did not review any data to arrive at that opinion but was merely referencing a report for which she did not have an understanding of the source data.[332] Dr. Wolf also confirmed she did not perform any analysis regarding the number of prescriptions or prescriptions per hour filled by Albertsons specifically in Washington for any period of time.[333] Further, Albertsons' President of Pharmacy, Mr. DalPonte, testified that contrary to Dr. Wolf's testimony, the report she relied upon indicated that Albertsons filled 5-6 prescriptions per *man-hour*, and that hours worked by pharmacists, pharmacy technicians, and pharmacy interns were all included in arriving at that number.[334] The prescriptions per man-hour metric is misleading and not persuasive because a pharmacist must approve every prescription that is dispensed, regardless of how many technicians or interns are also working.[335]

---

[327] 8/13/26 pm TT (Provenzano WA 30(b)(6) depo (9/9/25)) at 4804:24-4808:2 (addressing P-00953).
[328] 8/26/26 am TT (Wolf) at 6497:8-15.
[329] 8/24/26 pm TT (Wolf) at 6098:18-6097:24.
[330] 8/24/26 pm TT (Wolf) at 6100:2-11.
[331] 8/24/26 pm TT (Wolf) at 6096:18-6097:14.
[332] 8/26/26 am TT (Wolf) at 6477:8-6478:21.
[333] 8/26/26 am TT (Wolf) at 6484:3-18.
[334] 9/8/26 pm TT (DalPonte) at 8084:25-8085:9.
[335] 9/8/26 pm TT (DalPonte) at 8085:10-19.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

167. Regarding the myriad staffing grievances from Albertsons' pharmacy managers described above, Dr. Wolf waved them off as "a few complaints and instances where pharmacists are having a really bad day."[336] She also testified that Washington law is deferential and dictates only that pharmacy staffing should be sufficient "as determined by the pharmacist in charge."[337]

168. The Court considered Dr. Wolf's testimony but was ultimately unpersuaded by it. The communications described above do not reflect a "a few complaints" from pharmacists "having a really bad day." They reveal pharmacy managers, all across the state, over the course of years, working under "extreme"[338] conditions, begging their superiors for greater staffing allocations, and expressing the view that the existing staffing levels were putting lives at risk. Further, the concessions from Ms. Stoneback regarding "constant" issues with understaffing, and Mr. Queen's testimony regarding "unrealistic," "unsustainable," and "unsympathetic" staffing allocations, demonstrate that Albertsons' staffing shortfalls were systemic and by-design.

169. Finally, Dr. Wolf's claim that Washington law mandates only that pharmacy staffing should be "[s]ufficient as determined by the pharmacist in charge," is belied by the multiple instances in which the Department of Health showed no such deference, and issued Statements of Deficiencies for Albertsons stores for "facility staffing." In those instances, DOH cited to WAC 246-945-410, which mandates that pharmacies "shall be staffed sufficiently to allow appropriate supervision [and] *operate safely*."[339] Further, Albertsons showed no such deference to the judgment of its "pharmacists in charge"; not only did Albertsons largely ignore the needs of its pharmacy managers, but it effectively disallowed them from maintaining the safe

---

[336] 8/24/26 pm TT (Wolf) at 6100:2-20.
[337] 8/24/26 pm TT (Wolf) at 6095:18-22.
[338] 8/24/26 pm TT (Court) at 6120:17-19.
[339] P-00397 at 0016; P-00314 at 0009 (emphasis added).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

staffing levels they believed necessary, and in at least one instance *punished* a pharmacy manager for exceeding Albertsons' dispensing-based staffing allocation.

170. In closing arguments, Albertsons argued that the Court should discredit the pharmacist complaints about staffing and workload identified and highlighted by the State because the complaints occurred during "respiratory season."[340] This argument fails. Contrary to Albertsons' suggestion during closing arguments that flu season spans six months from September to February, Albertsons' Director of Pharmacy Operations for the Seattle Division testified that flu season would be "winding down" in November and that its pharmacists were busy in September and October.[341] Further undermining Albertsons' argument that flu season was an aberration that led to pharmacist complaints is that its President of Pharmacy testified that Albertsons' labor model *considered* "respiratory season."[342] Finally, to the extent that flu season, or respiratory season, can impact the burdens placed on pharmacy staff, Albertsons' corresponding responsibility to prevent the diversion of controlled substances and its obligation to adequately staff its pharmacies exist year-round.

171. Based on the above, the Court finds that Albertsons' failure to properly staff its pharmacies impaired its pharmacists' ability to perform adequate due diligence on controlled substances, and as a consequence, put Washington residents' health at risk, increased the likelihood of controlled substance diversion, and harmed the State of Washington.

c. Albertsons Failed to Properly Train its Pharmacists on the Dispensing of Controlled Substances

172. The evidence adduced at trial establishes, and the Court finds, that there were systemic and pervasive failures by Albertsons and Safeway to train pharmacists on corresponding responsibility, red flag identification, and controlled substance diversion

[340] DX4084 at 36.
[341] 7/29/26 pm TT (Green) at 2764:5-16.
[342] 9/8/26 pm TT (DalPonte) at 8050:13-8051:5.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

prevention. As explained below, these failures span both companies across much of the relevant time period.

173. Prior to 2014, Safeway provided no training for its pharmacists on controlled substance dispensing,[343] and as noted above, none of Safeway's dispensing policies prior to 2014 even mentioned "corresponding responsibility" or "red flags."[344]

174. In 2014, Safeway began providing a half day of training on good faith dispensing practices to its regional managers and pharmacy managers, but the training did not extend to the staff pharmacists or pharmacy technicians.[345] Instead, it was expected that pharmacy managers would "take back the training and share that with their teams," but Safeway did not put any program in place to ensure its pharmacy staff was actually complying with the dispensing policies and procedures.[346] Moreover, in light of the pervasive staffing issues, it seems doubtful that there was time available for the information to be conveyed.

175. In September 2016, as part of its post-merger analysis of the Safeway pharmacy chain, Albertsons even acknowledged Safeway pharmacists' "lack of familiarity" "with current policies, practices, and procedures."[347]

176. The situation at Albertsons was no better.

177. Around 2017-2018, Albertsons began offering "Annual Controlled Substance Training" to its pharmacists.[348] But the "training" consisted of a PowerPoint presentation that contained only one slide with a passing reference to red flags.[349] Albertsons' Vice President of

---

[343] 7/30/26 am TT (Green 30(b)(6) depo (8/13/25)) at 2885:8-16.
[344] 7/28/26 pm TT (Green 30(b)(6) depo (8/13/25)) at 2437:21-2439:6, 2467:17-19 (discussing P-00918).
[345] 7/30/26 am TT (Green 30(b)(6) depo (8/13/25)) at 2885:17-2887:12.
[346] 7/30/26 am TT (Green 30(b)(6) depo (8/13/25)) at 2887:7-21.
[347] 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 250:1-251:2 (addressing P-0468 at 0017).
[348] 8/6/26 pm TT (Provenzano CT9 30(b)(6) depo (8/10/23)) at 3822:6-3823:12 (discussing P-04236).
[349] 8/6/26 pm TT (Provenzano CT9 30(b)(6) depo (8/10/23)) at 3823:17-3824:24.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

Pharmacy Compliance and Government Affairs, Mr. Provenzano, concedes that this one slide was not thorough, as it was "more focused on losses and reporting and documentation of records," rather than appropriate dispensing, and it was only after 2018 that the future trainings "really did start to delve more into more detailed focus on red flags and training around that."[350]

178. That subsequent focus on red flag training appears to be a reactive measure to DEA activity, rather than a concern for patient safety. In April 2018, as Mr. Provenzano became concerned that the DEA was going to conduct inspections of Albertsons pharmacies, Albertsons proposed initiating a "[c]omprehensive controlled substances training course for all pharmacists," which did not yet exist, as one of several "[o]ptions to address the opioid crisis."[351] Among the topics suggested for inclusion in this proposed training were "[u]nderstand pharmacists' corresponding responsibility with dispensing controlled substances," "[r]ecognize and resolve potential red flags," "[i]ncorporate information obtained from [PDMP] in the evaluation and decision-making process when deciding to fill a controlled substance prescription," and "[c]alculate daily [MMEs]."[352]

179. Due to delays in rolling out the Comprehensive Controlled Substance Training,[353] Albertsons prioritized rolling out a two-hour Continuing Education (CE) program for its pharmacists to fulfill in the meantime.[354]

180. But even this was problematic, as pharmacists were expected to complete the two-hour CE training while they were on the clock, at the same time they were expected to complete all their other mandatory tasks and duties.[355] As such, five months after Albertsons

---

[350] 8/6/26 pm TT (Provenzano CT9 30(b)(6) depo (8/10/23)) at 3825:10-3826:4.
[351] 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 288:16-291:10, 293:10-13 (discussing P-0604 at 001); 8/6/26 pm TT (Provenzano CT9 depo (8/10/23)) at 3824:25-3825:6.
[352] P-0604 at 0003.
[353] 8/4/26 pm TT (Massaad WA FACT depo (8/28/25)) at 3359:7-13 (discussing P-00496).
[354] 8/4/26 pm TT (Massaad WA FACT depo (8/28/25)) at 3358:14-3361:5 (discussing P-00496).
[355] 8/4/26 pm TT (Massaad WA FACT depo (8/28/25)) at 3360:8-3362:11.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

rolled out the controlled substance CE, pharmacists were "significantly behind," with less than half of Albertsons' pharmacists having completed the training.[356] In the Seattle division, specifically, "less than 40 percent of the pharmacists" were able to complete this continuing education program on time.[357]

181. Albertsons' Comprehensive Controlled Substance Training was not implemented until 2019.[358]

182. Based on the above evidence and similar evidence adduced at trial, the Court finds that Albertsons' various training initiatives, and the untimeliness of those initiatives, contributed to Albertsons' failure to adequately prevent controlled substance diversion.

d. Albertsons Failed to Establish an Adequate Compliance Department

183. The Court also finds that Albertsons failed to create an adequate pharmacy compliance team that could effectively ensure the proper dispensing of controlled substances by Albertsons pharmacies. Albertsons also failed to produce any kind of regular or systematic data reporting regime that would allow the Pharmacy Compliance department to analyze the due diligence that was being done, if at all, by its pharmacists.[359]

184. From 2012 to 2015, Albertsons' oversight of its pharmacists' corresponding responsibility consisted of one Albertsons employee, Ms. Price, and eventually one assistant.[360] Upon assuming the role of Director of Pharmacy Compliance in 2012, Ms. Price was not provided with any training or education from Albertsons on the opioid epidemic or the extent of

---

[356] 8/4/26 pm TT (Massaad WA FACT depo (8/28/25)) at 3362:21-3363:21 (discussing P-00235).
[357] 8/4/26 pm TT (Massaad WA FACT depo (8/28/25)) at 3363:22-3364:4 (discussing P-00235).
[358] 7/16/26 pm TT (Provenzano NM depo (2/10/22)) at 870:6-21.
[359] 7/15/26 am TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 580:7-11.
[360] 7/14/26 am TT (Price WA FACT depo (9/3/25)) at 376:12-17; 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 421:15-422:5.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

the crisis.[361] To hear Ms. Price put it, "at that time I don't think anyone truly recognized what was truly happening until the DEA really came out with all of their information."[362]

185. The actual "compliance" conducted by Ms. Price consisted of ad hoc, subjective, manual reviews of any and all controlled substance dispensing issues for roughly 1,000 pharmacies and thousands of pharmacists.[363] During Ms. Price's tenure as the Director of Compliance, Albertsons performed just two reviews of Washington pharmacies for appropriate controlled substance dispensing. The first was a January 2015 review of Store 471 in Richland.[364] Store 471 came to the attention of Ms. Price only when it was reported to her that Rite-Aid had blocked prescriptions from prescriber Ann Kammeyer, a top prescriber at Store 471.[365] The second was a review of Store 241 in Clarkston that was identified with the use of a data analysis tool that Ms. Price was able to convince Albertsons to onboard in January 2015.[366] The data tool identified Store 241 as an outlier based on its dispensing of hydrocodone, which was significantly above the pharmacy average of 103,000 dosage units a year.[367] Had Ms. Price reviewed the volume of hydrocodone dispensing from Store 241 earlier, she would have discovered that it had been over the average 103,000 dosage units a year all the way back to 2006, and that it was often *four to five times above* that average.[368] To be clear, the Court does not fault Ms. Price for that failure. With one or two individuals to monitor compliance at all

---

[361] 7/14/26 am TT (Price WA FACT depo (9/3/25)) at 378:10-16.
[362] 7/14/26 am TT (Price WA FACT depo (9/3/25)) at 378:10-16.
[363] 7/14/26 am TT (Price WA FACT depo (9/3/25)) at 377:2-8; 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 421:15-422:5, 423:1-16, 423:23-424:2, 424:8-425:6; 7/13/26 TT (Covaci WA FACT depo (9/9/25)) at 211:12-24; 7/15/26 am TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 563:24-564:9.
[364] P-00522.
[365] P-00521.
[366] P-00557.
[367] P-00557.
[368] P-04179 at 0115.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

1000+ Albertsons pharmacies nationwide, and no tool available to assist in identifying dispensing patterns to review, it is not surprising that Store 241 was not reviewed earlier.

186. Only in 2015 did Albertsons even begin to recognize that it needed a formal compliance program, similar to what other pharmacy chains had, and only when the DEA mandated it. At that time, Albertsons acquired Safeway, which was being investigated by the DEA for theft and "significant" loss issues at its North Bend, Washington and Wasilla, Alaska stores.[369] As a result of those investigations, the DEA mandated the creation of Albertsons' Pharmacy Controlled Substance Analytics Team (PCAT), which was charged with investigating the loss and diversion of controlled substances.[370]

187. At the time of its creation in 2015, through at least 2020, Albertsons' PCAT team consisted entirely of Ms. Covaci—who had never previously held a compliance role[371]—and six subordinates, who were charged with monitoring all 1,700 Albertsons and Safeway pharmacies.[372] Making matters worse, the six-member team faced substantial turnover, and consisted of people who had "non-pharmacy backgrounds," did "not fully understand" what the job entailed, and "struggled" in their roles.[373]

188. Further, PCAT did not even begin developing an operating manual until 2019, even though Ms. Covaci acknowledged in 2016 that "[t]he development of a formal SOP manual for the PCAT team" was of some importance.[374] By the time she departed PCAT in 2020, no

---

[369] 7/23/26 am TT (Aitken WA FACT depo (8/22/25)) at 1848:16-24; 8/3/26 am TT (Green WA 30(b)(6) depo (8/13/25)) at 2936:19-2937:4.
[370] 7/13/26 TT (Covaci WA FACT depo (9/9/25)) at 175:2-8; 7/15/26 am TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 545:24-546:19.
[371] 8/19/26 pm TT (Covaci) at 5549:1-7.
[372] 7/13/26 TT (Covaci WA FACT depo (9/9/25)) at 175:9-16; 177:4-12 (discussing P-0624); 7/15/26 am TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 547:7-23.
[373] 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 277:16-278:10.
[374] 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 266:20-267:11 (discussing P-0598).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

singular stand-alone SOP manual for the PCAT team had been created.[375] And as of March 2021, by Albertsons' own admission, the manual was still "incomplete and very outdated."[376]

189. The PCAT team was responsible for "Controlled Substance Dispensing Reviews" of pharmacies, and Prescriber Reviews of prescribers and their prescribing habits as they related to controlled substances.[377] Ms. Covaci conceded that if the PCAT team "did not do a good job, that could lead to more diversion of opioids into the communities in which Albertsons pharmacies operate."[378] But because the DEA's investigations focused on theft and loss, the PCAT team also focused primarily on theft and loss, and not on any other compliance issues, such as whether its stores were identifying and resolving prescriptions with indicia of diversion.[379]

190. In August 2016, when asked by the VP of Compliance to list the top five "issues or challenges/threats" facing the PCAT team, Ms. Covaci wrote that "[t]he team was operating at a maximum capacity with little to no room to take on additional cases and/or controlled substance related responsibilities.[380]

191. In 2017, Mr. Provenzano wrote to his corporate overseers that "[controlled substance] is still highest priority. I continue to have very strong concerns over ability of PCAT to manage the workload. Currently trying to identify ways to have non-PCAT team members pick up the more administrative tasks to free PCAT up for critical work. This area has potential to put our DEA settlement at risk."[381] Mr. Provenzano's strong concerns were not addressed.

---

[375] 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 267:13-268:2.
[376] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 669:25-671:5 (discussing P-00520).
[377] 7/13/26 TT (Covaci WA FACT depo (9/9/25)) at 177:23-178:6.
[378] 7/13/26 TT (Covaci WA FACT depo (9/9/25)) at 179:15-24.
[379] 7/13/26 TT (Covaci WA FACT depo (9/9/25)) at 176:15-17, 177:13-18, 255:12-22.
[380] 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 262:10-264:22 (discussing P-0598).
[381] P-00963 at 0003.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

192. By late 2018, Ms. Covaci and the six-member PCAT team were investigating roughly 4,000 loss reports a month.[382] That same year, Albertsons acknowledged that "[d]ue to the amount of time this process takes, the PCAT team is unable to adequately fulfill their current scope of responsibility."[383] Further, "lack of staffing and workload has prohibited the team . . . from doing everything that it was setting out to do,"[384] and "[s]taffing challenges with PCAT have hindered delivering on several projects and processes."[385] Despite the above, the PCAT team, which faced a substantial amount of turnover, never increased in size beyond Ms. Covaci and her swamped six-member team, until some time after Ms. Covaci's departure from that role in 2020.[386]

193. In mid-2018, the DEA issued a press release indicating that it would be increasing its efforts in investigating controlled substance dispensing compliance. Only after that announcement, and because of it, did Albertsons' PCAT team *begin* to concern itself with its pharmacists' corresponding responsibility,[387] though theft and loss remained the primary focus of Albertsons' compliance team through mid-2019.[388] And even when that focus began to shift towards corresponding responsibility, it was far too late.

194. The same is true for several tools Albertsons had at its disposal to better monitor its pharmacies. In all cases, these tools were only effectively implemented in 2019, well after the peak of the prescription opioid epidemic. And the evidence shows Albertsons rarely, if ever, meaningfully acted upon the information obtained through these measures.

---

[382] 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 253:17-254:21 (discussing P-0607), 256:3-7.
[383] 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 258:1-260:5.
[384] 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 268:11-15, 271:23-272:8 (discussing P-0625).
[385] 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 275:21-276:4 (discussing P-00625).
[386] 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 264:23-265:4, 277:16-278:10.
[387] 7/13/26 TT (Covaci WA FACT depo (9/9/25)) at 279:10-20; 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 301:5-14.
[388] 7/13/26 TT (Covaci WA FACT depo (9/9/25)) at 176:15-17, 177:13-18, 255:12-22.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

i. Dispensing Data

195. Starting in 2015, the third-party vendor IMS/IQVIA provided Albertsons with a CSR tool, which links pharmacy dispensing patterns with patient and prescriber data, in order to "rate[] outlets, prescribers and patients based on their controlled substance purchases," dispensing, and consumption patterns.[389] The CSR tool provided ratings for pharmacies, on a scale of 0 to 100, with the higher rating meaning it was likelier to warrant investigation.[390] In other words, tool could identify pharmacies and prescribers that have higher than normal controlled substance usage and may warrant a deeper inquiry.[391] But neither the pharmacists at the Albertsons stores, nor the DPMs (the regional managers), nor the DPOs (the next level of supervision), had access to this tool.[392]

196. More importantly, despite obtaining this tool in February 2015, after Ms. Price's departure, Albertsons did not incorporate the data generated by the CSR tool into any Controlled Substance Dispensing Reviews for pharmacies in the State of Washington until August 2019,[393] and only did so "reactively," because "Albertsons perceived that the DEA was shifting its focus into [the] inappropriate dispensing of controlled substances."[394]

---

[389] 7/13/26 TT (Covaci WA FACT depo (9/9/25)) at 212:11-213:12, 213:13-214:10 (discussing P-0508 at 0003); 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 426:5-23 (discussing P-00506); 7/15/26 am TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 550:10, 552:16-553:3, 562:24-563:4 (discussing P-00507).

[390] 7/15/26 am TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 554:3-6, 554:18-22; 7/13/26 TT (Covaci WA FACT depo (9/9/25)) at 214:25-215:3, 215:22-216:2.

[391] 7/13/26 TT (Covaci WA FACT depo (9/9/25)) at 217:6-13; 7/15/26 am TT (Aitken 30(b)(6) depo vol.1 (8/20/25)) at 557:20-25, 560:2-5.

[392] 7/13/26 TT (Covaci WA FACT depo (9/9/25)) at 218:23-220:1; 7/15/26 am TT (Aitken 30(b)(6) depo (8/20/25)) at 558:16-559:22; *see also* Section II.D.1.a.ii.

[393] 7/13/26 TT (Covaci WA FACT depo (9/9/25)) at 220:15-21, 221:17-23, 222:12-224:24, 225:16-20 (addressing P-0198); 7/15/26 am TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 565:25-566:2, 566:22-567:6, 567:10-14.

[394] 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 279:14-20, 280:10-13.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

197. Even when Albertsons eventually began performing Controlled Substance Dispensing Reviews of some Washington stores in 2019, the Court finds that those reviews were ineffective to prevent diversion because they were conducted only *after* dispensing had already occurred,[395] and they were purely data-driven, and lacked "context on a patient-care level."[396] And Albertsons did not send the Controlled Substance Dispensing Reports to its pharmacists; only to the regional managers, who could use them any way they saw fit, including not at all.[397] The regional managers were not even required to report back to the Compliance department to discuss the actions undertaken in response to the reports until 2022.[398]

198. The evidence also shows that Albertsons rarely, if ever, acted on these reviews and reports. One 2020 review identified a husband and wife who were receiving prescription fills for OxyContin pills at the 80mg strength (the highest available), and who had previously been caught selling OxyContin in 2012, and had been "kicked out" of Haggen pharmacies.[399] The report noted that a prior pharmacist in charge had determined "not to fill for them, no exceptions,"[400] and also identified the prescriber as a physician's assistant named Ona Schulz.[401] But Albertsons did not take any action after the review,[402] and continued to fill prescriptions written by Ms. Schulz until her license was suspended in 2021.[403] Nor did Albertsons have any

---

[395] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 671:9-25.
[396] 7/14/26 am TT (Covaci NM FACT depo (2/9/22)) at 362:12-363:6.
[397] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 672:21-24, 676:1-7.
[398] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 672:25-674:25.
[399] 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 311:10-312:5, 321:13-24 (discussing P-00622).
[400] 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 312:12-19 (discussing P-0622).
[401] 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 312:20-313:2, 323:2-7 (discussing P-00622).
[402] 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 323:2-324:23.
[403] 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 324:21-23, 325:24-326:3; 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 756:6-14; *see also* P-03523 (showing prescriptions written by Ms. Schulz and filled by Albertsons pharmacies through 2021); P-00735 (Washington State DOH FOFCOL and Final Order re Ona Schulz (11-9-2020)).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

system in place once a problem was identified at one location (such as Haggens referenced above) to ensure that other Albertsons pharmacies were aware of the problem.

199. In another instance, in April 2020, a store dispensing report revealed many alarming red flags and numerous prescriptions exceeding the daily 90 MME threshold recommended by the CDC—with one patient receiving 590 MMEs *per day*—all tied to a specific prescriber, Dennis Mann, D.O.[404] Albertsons' Compliance Department took no action to further investigate Dr. Mann,[405] and continued filling prescriptions written by him until December 2021.[406]

200. Also, starting in 2019, Albertsons began generating the "MME Reports," which would "essentially collect all the opioids filled across the book of business, calculate the daily MMEs, and . . . identify potential flags for pharmacies that have higher MME patients [and] doctors that are prescribing higher MMEs."[407] In other words, the MME Reports could help Albertsons' compliance team identify high-risk stores for further scrutiny.

201. These MME Reports were shared with the Compliance Department, with PCAT, and with the DPMs and DPOs, but only shown to pharmacists starting in 2019,[408] long after the peak of the prescription opioid epidemic. And the Compliance Department only "*started* getting substantive feedback from the DPMs on what they did with those reports in 2023,"[409] after the relevant time period.

---

[404] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 686:19-23, 690:10-20, 695:22-697:20, 698:21-700:2, 700:25-702:10, 702:25-705:17.
[405] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 706:10-15 (discussing P-00191); 8/11/26 am TT (Arndorfer WA FACT depo (7/10/25)) at 4196:9-23.
[406] P-04177 at 0001-5; *see also* Section II.D.1.h.ii (discussing Dr. Mann).
[407] 7/15/26 am TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 569:17-570:1.
[408] 7/15/26 am TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 570:2-15; 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 604:10-605:3; 8/20/26 am TT (Covaci) at 5653:21-5654:18.
[409] 7/15/26 am TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 605:4-6.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

ii. Mock DEA Audits

202. Starting in late 2019, Albertsons implemented a formal process of "mock DEA" audits.[410] At that time, they were conducted by the DPMs, who would visit the pharmacies and prepare them "for what they may see if the DEA were to do an audit on a pharmacy."[411] This involved checking controlled substance invoices and the corresponding documentation, and reviewing whether the dispensing of controlled substances was appropriate.[412]

203. Notably, in February 2018, while designing the mock DEA audit process, Albertsons created a "Pharmacy Operations DEA Prep Checklist for DPMs," which would come to be known, internally, as the "DEA visit survival guide."[413] The survival guide instructed DPMs to "[i]dentify a dedicated individual to stay with the DEA the entire time they're in the building," and "***[u]nder no circumstances should the agents be left alone to have access to anything on their own. Buddy up***."[414] The guide also instructed the DPMs to "[c]oach the pharmacy teams that questions should be answered in yes/no type fashion."[415]

204. Nothwithstanding the appropriateness of these instructions, Albertsons concedes that feedback from the audits is helpful for the pharmacy Compliance Department to understand what is happening at the pharmacy level, and therefore what areas may need additional training or education.[416] But when the program rolled out in late 2019, the DPMs were not required to provide any feedback to the higher-ups.[417] Instead, they merely needed to attest that the mock

---

[410] 7/29/26 pm TT (Green) at 2766:1-6.
[411] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 665:10-666:6.
[412] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 665:10-666:6.
[413] 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 282:16-23, 283:25-284:9 (discussing P-00492 at 0004), 297:17-24, 308:6-11 (addressing P-00467).
[414] 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 285:6-22 (discussing P-00492 at 0004) (emphasis in original).
[415] 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 285:23-286:2 (discussing P-00492 at 0004).
[416] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 666:19-667:8.
[417] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 666:7-14; 7/29/26 pm TT (Green) at 2722:15-22.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

audits had been done.[418] It was not until 2023 that the DPMs were required to give feedback from these audits to the pharmacy Compliance Department.[419]

205. Further, the only Mock DEA Audit form that was introduced in evidence at trial showed that when the DPM visited Safeway Store No. 494 in Enumclaw, Washington, he found that there was no evidence that red flags associated with large quantities, duplicate therapy, trinity cocktails, and opioid/benzodiazepine combinations were identified, resolved, and documented by the Albertsons pharmacists.[420] But there is no indication that any action was taken in response to these noted deficiencies.

iii. Field Evaluations

206. It bears mention that sometime after Ms. Price became the Director of Pharmacy Compliance in 2012, she developed a process of in-store inspections of Albertsons' pharmacies, known as "field evaluations."[421] These were "top-to-bottom inspections of the pharmacy in terms of compliance"[422] that could help identify on which "areas of improvement" the pharmacies could focus.[423] The field evaluation team, which consisted of 31 members, and who were responsible for all 1,700 pharmacies,[424]conducted in-store inspections, which were pass/fail, and "took anywhere from two to four hours."[425] The field evaluators would then "educate and coach the [pharmacy] teams on anything that may have been missing."[426]

207. Critically, while these field evaluations could have been a useful tool in Albertsons' efforts to prevent diversion, the field evaluation program focused on administrative

---

[418] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 666:7-14; 7/29/26 pm TT (Green) at 2722:15-22.
[419] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 666:15-18.
[420] P-00206.
[421] 8/26/26 pm TT (Price) at 6594:14-22.
[422] 8/19/26 am TT (Covaci) at 5468:3-5469:9.
[423] 8/26/26 am TT (Wolf) at 6413:3-13.
[424] 7/13/26 TT (Covaci WA FACT depo (9/9/25)) at 175:21-176:10, 207:2-12.
[425] 8/19/26 am TT (Covaci) at 5468:3-5469:9.
[426] 8/26/26 pm TT (Price) at 6594:25-6595:4.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

requirements, such as recordkeeping, and *did not* include an evaluation of controlled substance dispensing, and did nothing to examine whether pharmacists were fulfilling their corresponding responsibility.[427]

* * *

208. Based on the above, Albertsons' failure to meaningfully implement any effective compliance tools to monitor their pharmacists' due diligence prior to 2019 played a direct role in the improper dispensing of opioids and in Albertsons' role in the opioid crisis.

209. Albertsons' expert, Dr. Wolf, disagrees. In essence, Dr. Wolf opined that Albertsons' adoption of the various tools described above "exceeded the standard of care," "exceeded expectations," and exceeded "the regulations."[428] The Court is not persuaded by Dr. Wolf's testimony. As explained above, despite possessing several tools to monitor its pharmacists' due diligence, Albertsons did not deploy these tools in the State of Washington until 2018-2019, and in many cases did not share the tools with its pharmacists and DPMs.

210. As Mr. Catizone opined, and the Court finds, Albertsons failed to timely put in place "programs or systems to actually track compliance with [its] policies and procedures."[429] In other words, even though Albertsons may have untimely adopted policies and procedures on red flags and documentation, "Albertsons did not enforce those, did not monitor those, and did nothing in order to ensure that those red flags were resolved before a prescription was dispensed."[430]

---

[427] 7/13/26 TT (Covaci WA FACT depo (9/9/25)) at 175:21-176:10, 207:2-12; 8/26/26 am TT (Wolf) at 6414:24-6415:3, 6421:22-24.
[428] 8/24/26 am TT (Wolf) at 6038:14-6039:6, 6056:10-6057:15, 6071:7-13.
[429] 8/5/26 am TT (Catizone) at 3477:2-9.
[430] 8/6/26 am TT (Catizone) at 3642:20-3643:5 (cleaned up).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

e. Albertsons Failed to Document the Resolution of Red Flags

211. As explained above, dispensers of controlled substances have a duty to identify and resolve red flags of diversion before dispensing and document that resolution.[431]

212. More specifically, in the event that a pharmacist identifies red flags associated with a prescription but ultimately decides to fill that prescription following sufficient due diligence, Albertsons' policies repeatedly, consistently, and expressly mandated that the pharmacist "*must* . . . document the rationale for dispensing if they do so."[432] In addition to the safety-related reasons described in greater detail below, Ms. Covaci explained to her colleagues, "[t]he level of documentation must be detailed enough to defend the decision to dispense if questioned by a regulatory agency or third-party payer."[433] Further, "[d]ocumentation MUST be made to explain [the] decision to continue to dispense despite the known prescription limitation. Documentation must be able to defend the decision to dispense. Notes like 'MD ok'd' or 'prescriber aware and wants' are not sufficient. Detailed rationale and circumstances must be documented."[434]

213. As Albertsons stated in CE materials it distributed to all its pharmacists in 2013, "[d]ocument, document, document."[435] Moreover, "[t]he pharmacist must document the steps they have taken to verify the prescription, including any calls to the prescriber, conversations

---

[431] *See supra* Section II.D.1, *infra* Section III.A.1.

[432] 8/19/26 pm TT (Covaci) at 5572:6-12 (discussing DX1858 at 0010); *see also* 7/29/26 pm TT (Green) at 2743:3-15 (addressing P-00109 at 0001 ("where you cannot resolve red flags you must use your professional judgement on whether you can dispense the medication. You must document that as well.")).

[433] 9/1/26 pm TT (Provenzano) at 7333:25-7335:6 (discussing P-04384 at 001).

[434] 9/1/26 pm TT (Provenzano) at 7335:17-7336:11 (discussing P-04384 at 001) (emphasis in original).

[435] 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 412:1-413:2, 415:2-14, 417:20-418:1 (addressing P-00324 at 0007); 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 594:12-19, 595:12-21, 596:4-9, 598:23-599:12 (discussing P-00323).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

with the patient, medication history review, PMP access, and reviewing the prescription itself, or in the pharmacy management system."[436]

214. Numerous Albertsons witnesses spoke to the "critical" importance of documentation and further testified that it has always been Albertsons' policy to document the resolution of red flags. For instance, Ms. Covaci, who served as Director of Pharmacy Compliance from 2015 to 2020, described documentation as a "critical safety tool,"[437] and agreed that documentation is Albertsons' policy as well.[438] Albertsons' expert, Dr. Gilligan, also referred to documentation as a "critical step."[439] Tory Aitken, Albertsons' Director of Pharmacy Compliance since 2020, when testifying as a 30(b)(6) designee on behalf of Albertsons, similarly agreed that the documentation of red flag resolution has always been Albertsons' policy.[440] Nasri Massaad, former DPM, DPO, and Albertsons' current Vice President of Pharmacy Operations and Patient Care Services for the "West Region," agreed that appropriate documentation "has *always* been the standard of care."[441] In fact, the 2011 DEA "Road show" PowerPoint, circulated internally at Albertsons, expressly stated "[p]hysicians and pharmacists need not fear DEA action if prescribing controlled substances . . . [w]ith appropriate documentation."[442] This is consistent with Albertsons DEA "survival guide," which says "appropriate documentation" is part of "appropriate dispensing."[443] Finally, the documentation requirements is reiterated within the industry-wide continuing education document that Albertsons circulated to all of its

---

[436] 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 418:6-18 (discussing P-00324 at 0007); 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 599:24-600:8.
[437] 8/19/26 am TT (Covaci) at 5460:18-25, 5577:11-23.
[438] 8/19/26 pm TT (Covaci) at 5570:1-13 (addressing P-00053 at 0067), 5571:5-18 (discussing DX1858 at 0010).
[439] 8/20/26 pm TT (Gilligan) at 5862:19-5863:24.
[440] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 599:5-15.
[441] 8/4/26 pm TT (Massaad WA FACT depo (8/28/25)) at 3357:15-3358:8 (emphasis added).
[442] 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 452:24-453:5 (discussing P-00011 at 0043).
[443] 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 285:23-286:2 (discussing P-00492 at 0004).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

pharmacists nationwide wherein it states that "[t]he pharmacist must document the steps they have taken to verify the prescriptions."[444]

215. The importance of documenting the resolution of red flags cannot be overstated. Not only can documentation explain and justify the reasons for dispensing or rejecting controlled substance prescriptions, it is also a "critical safety tool"[445] that helps pharmacists and stores communicate with each other.[446] Without documentation, a pharmacist reviewing a patient's fill history cannot know whether or not a red flag had been resolved by a prior pharmacist.[447] The documentation notes are especially helpful for float pharmacists who fill prescriptions for patients with whom they are unfamiliar.[448] Further, without documentation on every red-flagged prescription, a pharmacy's compliance department cannot meaningfully conclude that its pharmacists conducted sufficient due diligence.

216. As explained above in Section II.D.1.a, among the opioid prescriptions Albertsons dispensed during the relevant time frame that had one or more red flags, Albertsons pharmacists only sufficiently documented due diligence on 4% of those prescriptions.[449] In other words, **96% of these flagged opioid prescriptions reflected insufficient due diligence to justify the filling of the red-flagged prescriptions.**

217. While, as noted above, the Court finds that Mr. Catizone's claim that "if the resolution of a red flag is not documented, it was not resolved" to be an overstatement,

---

[444] 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 418:11-18 (addressing P-00324).
[445] 8/19/26 pm TT (Covaci) at 5577:11-23.
[446] 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 408:20-409:8; 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 660:9-19, 600:24-601:16.
[447] 8/19/26 pm TT (Covaci) at 5575:17-25.
[448] 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 409:17-22; 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 601:17-602:5.
[449] 7/20/26 am TT (McCann) at 1168:20-1170:13; 8/5/26 am TT (Catizone) at 3505:9-25, 3507:3-9.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

Albertsons itself agrees that "without documentation, you don't have any way of knowing whether or not anything actually happened."[450]

218. At trial, Albertsons attempted to diminish the documentation requirement by referring to it as a "best practice,"[451] rather than the standard of care, as though the requirement is merely aspirational. But as explained in the paragraphs above, not only was documentation always the standard of care, but Albertsons' own policies *mandated* documentation and emphasized its importance. *See supra* FOF ¶¶ 212-14.[452]

219. Albertsons also attempted to diminish the importance of documentation by relying on its expert, Dr. Wolf, who opined that the prescription itself can often satisfy the requirement that pharmacists document their resolution of red flags.[453] It also called its current Director of Pharmacy Compliance, Shondra Calmes, who testified (nonsensically in the Court's view) that the act of dispensing the prescription serves as documentation that red flags had been resolved.[454] Finally, Albertsons points to language of a national settlement agreement with Kroger—to which the State of Washington is one of many participants[455]—that includes injunctive terms that require documentation resolving red flags unless the resolution is based on

---

[450] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 600:20-23.

[451] 8/19/26 pm TT (Covaci) at 5417:3-5 ("there is best practices to document why certain prescriptions were dispensed the way they were"); 8/20/26 am TT (Covaci) at 5664:19-20 ("documentation would be a best practice"); 8/24/26 pm TT (Wolf) at 6090:22-25 ("Q: So when Albertsons was telling its pharmacists to document the resolution of any red flag, was that the standard of care, or a best practice? A: A best practice."); 8/27/26 am TT (Price) at 6674:10 ("We advised it as a best practice.").

[452] *See also* 8/4/26 pm TT (Massaad WA FACT depo (8/28/25)) at 3357:15-3358:8 (documentation has "always been the standard of care when it relates to filling prescriptions for controlled substances").

[453] *See*, *e.g.*, 8/25/26 am TT (Wolf) at 6231:23-6232:24; 8/26/26 am TT (Wolf) at 6451:13-6452:1.

[454] 9/8/26 am TT (Calmes) at 7966:13-18.

[455] DX0259.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

the pharmacist's pre-existing knowledge of the patient or prescriber, or if documentation resolving the red flag already exists within Kroger's records.[456]

220. For the reasons explained below, the Court rejects the testimony on this topic from Dr. Wolf and Ms. Calmes and rejects Albertsons' reliance on a national settlement agreement.

221. As a threshold matter, Dr. Wolf has limited experience in retail pharmacy practice, having worked as a licensed pharmacist only from July 2011 until December 2012.[457] And while she served as a PQAC Commissioner for approximately four years,[458] her description of that work did not support the conclusion that Dr. Wolf was qualified to offer opinions on the documentation requirement that applies to retail pharmacists. Based on Dr. Wolf's background, the Court does not find her testimony regarding the documentation requirement persuasive.

222. Further, Dr. Wolf's position that the prescription itself can contain the necessary documentation is also contrary to the longstanding language of Albertsons' policies that require "*[a]ll measures taken* to determine the legitimacy of a prescription" to be documented.[459] And Ms. Calmes' testimony that the mere act of filling the prescription serves as documentation is nonsensical, and the Court rejects it outright.

223. The Court also gives little weight to the language of the national Kroger settlement agreement. The settlement agreement represents a compromise that includes 34 states as participants,[460] and the injunctive terms of the agreement relied upon by Albertsons expressly state that they "shall not be offered or received in evidence or otherwise relied on in any action,"[461] and that "[n]othing in the Injunctive Terms shall be construed as relieving Kroger of

---

[456] DX0259 at 385-386.
[457] 8/25/26 am TT (Wolf) at 6314:23-6315:6.
[458] 8/24/26 am TT (Wolf) at 5928:4-19, 5952:21-5954:25.
[459] *See, e.g.*, P-00052 at 0055; P-00053 at 0065.
[460] DX0259 at 109.
[461] DX0259 at 377-379.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

the obligation of its pharmacies to comply with all federal, state and local laws."[462] This language from the settlement agreement is consistent with Mr. Catizone's testimony that a settlement agreement has no bearing on the laws, regulations, and standards governing the practice of pharmacy.[463] Mr. Catizone, who by his background and qualifications is eminently qualified to offer opinions on the practice of retail pharmacy, opined that where there is a pre-existing relationship between the pharmacist and the patient, documentation *is* required.[464] Specifically, Mr. Catizone testified that there must be at least one act of documentation so that all pharmacists who subsequently interact with that patient have the benefit of knowing the red flag has been identified and resolved.[465] The Court agrees with Mr. Catizone.

224. Based on the above, the Court finds that Albertsons failed to effectively document the resolution of red flags during the relevant time period. The Court further finds that the pervasive absence of evidence documenting the resolution of red flags supports an inference that in many instances there was the finding of an actual failure to identify and/or resolve red flags, resulting in inappropriate dispensing and a contribution to Washington's opioid epidemic.

f. Albertsons Improperly Incentivized its Pharmacists and Pharmacy Managers to Fill a Higher Volume of Prescriptions for Controlled Substances While Disincentivizing Due Diligence

225. At trial there was testimony about Albertsons policies that improperly encouraged increased opioid dispensing at the expense of patient care and controlled substance due diligence. In particular, Albertsons directly tethered both pharmacists' bonuses, as well as pharmacies' staffing allocations, to the number of prescriptions dispensed, including prescriptions for

[462] DX0259 at 377-379.
[463] 8/5/26 pm TT (Catizone) at 3609:5-21.
[464] 8/6/26 am TT (Catizone) at 3671:13-3672:13.
[465] 8/6/26 am TT (Catizone) at 3671:13-3672:13.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

controlled substances. Albertsons considered prescription volume, including controlled substance prescriptions, to be the measure of "success in the business world."[466]

226. The DPMs were charged with both monitoring the number of prescriptions that were going out the door at the pharmacies they oversaw, as well as making some effort to increase those counts where possible.[467] Both the DPMs and pharmacy managers were evaluated based on their ability to increase the number of prescriptions dispensed.[468] To motivate its pharmacists to fill more prescriptions, Albertsons set store targets for prescription volume, scored its pharmacy managers based on prescription counts rather than their efforts to prevent diversion, and tied bonus payments to the number of prescriptions filled.[469] In simpler terms, the higher the prescription count, the higher the bonus.[470]

227. Critically, the number of prescriptions pharmacists *refused* to fill was not counted towards the total for the pharmacists' scores or bonuses.[471] In other words, it worked *against* a pharmacist's financial interests to reject controlled substance prescriptions. Thus, pharmacists and pharmacy managers looking to improve their standing with Albertsons management or make more money were dangerously disincentivized from conducting due diligence and refusing to fill prescriptions.

228. Ultimately, while it seems inappropriate to tie prescription volume –particularly when controlled substance volume is included in overall prescription volume and rejected prescriptions are not– to bonuses, there was no evidence adduced at trial suggesting that pharmacists' practice regarding controlled substances was influenced by the bonus structure, and substantial testimony from Albertsons witnesses that it did not.

---

[466] 8/11/26 pm TT (Covaci NM 30(b)(6) depo (3/2/22)) at 4348:9-12.
[467] 7/27/26 pm TT (Stoneback WA FACT depo (9/11/25)) at 2188:6-10.
[468] 7/27/26 pm TT (Stoneback WA FACT depo (9/11/25)) at 2188:22-2189:7.
[469] 8/11/26 pm TT (Covaci NM 30(b)(6) depo (3/2/22)) at 4336:21-4346:6; 7/27/26 pm TT (Stoneback WA FACT depo (9/11/25)) at 2187:22-2188:19.
[470] 7/27/26 pm TT (Stoneback WA FACT depo (9/11/25)) at 2190:14-2191:6.
[471] 7/27/26 pm TT (Stoneback WA FACT depo (9/11/25)) at 2189:8-12.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

229. Of greater concern is that during this time period, the staffing of Albertsons pharmacies "was directly tied to the number of scripts that were going out the door."[472] In fact, prescription count was the "main driver" of staffing.[473] In other words, "the more scripts [a store] got out the door, the more staffing allocation a store could get."[474] And Albertsons routinely made drastic staffing reductions for pharmacies that fell below dispensing projections.[475] In this regard, if a store was understaffed, one way that they could remedy that would be to dispense more prescriptions, and get a higher staffing allocation.[476] Albertsons did not hide the fact that labor allocations would be imperiled if pharmacies failed to meet certain prescription count goals, and communicated this to its regional managers (DPMs), its pharmacy managers, and its pharmacists.[477]

230. Based on this scheme, and in light of Albertsons' decision not to count the number of prescriptions pharmacists *refused* to fill, pharmacy managers of understaffed stores, or beleaguered pharmacists looking to increase the store's labor allocation, were disincentivized from doing due diligence and incentivized to fill as many prescriptions as possible.[478]

231. Moreover, as Mr. Catizone explained, Albertsons' staffing structures "created an inherent conflict of business goals and patient safety," by "creat[ing] an incentive" and "putting pressure on the pharmacist to fill prescriptions."[479] This conflict "put the patients at risk and it put significant pressure on the pharmacist to do things that they probably can't do, shouldn't do,

---

[472] 7/27/26 pm TT (Stoneback WA FACT depo (9/11/25)) at 2191:19-24, 2193:16-24 (discussing P-00474); 8/6/26 pm TT (Certo WA FACT depo (8/19/25)) at 3849:14-17.
[473] 7/27/26 pm TT (Stoneback WA FACT depo (9/11/25)) at 2194:5-10 (addressing P-00474).
[474] 7/27/26 pm TT (Stoneback WA FACT depo (9/11/25)) at 2193:21-24.
[475] P-00424 at 0003-0015.
[476] 7/27/26 pm TT (Stoneback WA FACT depo (9/11/25)) at 2193:25-2194:4; 8/6/26 pm TT (Certo WA FACT depo (8/19/25)) at 3849:18-21.
[477] 7/27/26 pm TT (Stoneback WA FACT depo (9/11/25)) at 2196:7-17.
[478] 7/27/26 pm TT (Stoneback WA FACT depo (9/11/25)) at 2193:16-2194:4.
[479] 8/5/26 am TT (Catizone) at 3429:2-3430:14.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

and probably don't want to do."[480] While the Court ultimately does not find that the bonus structure was a contributor, the overall emphasis on prescription volume, when combined with understaffing discussed above, contributed to an environment in which inappropriate dispensing occurred.

g. Albertsons Failed to Prevent the Theft and Loss of Controlled Substances

232. The Court also finds that, during the relevant time period, Albertsons' various above-described failures to properly guard against diversion resulted in preventable thefts and losses of a large number of prescription opioid pills.

233. Some of the reported thefts and losses were staggering.

234. In October 2013, Safeway learned that one of its pharmacists in North Bend "intermittently" stole 72,600 hydrocodone pills over the course of two-years.[481] "Once discovered, Safeway failed to report the loss to the DEA for six months."[482] By July 2014, nine months after discovering the loss, Safeway had still not informed PQAC.[483]

235. Similarly, over the course of two years, a Safeway pharmacy technician in Leavenworth stole approximately 12,000 hydrocodone tablets before being discovered and arrested in July 2014.[484]

236. In May 2014, a pharmacy assistant in Olympia stole over 19,000 hydrocodone pills.[485] Safeway reported the loss to the DEA in July of that year, but as of October 2014, five months after the loss, Safeway had still not reported it to the Washington Board of Pharmacy.[486]

---

[480] 8/5/26 am TT (Catizone) at 3429:2-3430:14.
[481] 8/3/26 am TT (Green WA 30(b)(6) depo (8/13/25)) at 2957:1-2958:19.
[482] 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 241:3-242:18 (discussing P-0299).
[483] 8/3/26 am TT (Green WA 30(b)(6) depo (8/13/25)) at 2959:9-21.
[484] 8/3/26 am TT (Green WA 30(b)(6) depo (8/13/25)) at 2948:9-15, 2949:1-2952:8 (discussing P-00926).
[485] 8/3/26 am TT (Green WA 30(b)(6) depo (8/13/25)) at 2952:9-2954:10 (addressing P-00928).
[486] 8/3/26 am TT (Green WA 30(b)(6) depo (8/13/25)) at 2953:9-12 (addressing P-00928).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

237. The above incidents represent thefts and losses of enormous amounts of pills and highlight Albertsons' failure to institute and maintain effective controls against diversion. But even losses of smaller amounts, such as 120 pills, are considered "significant" by the DEA.[487] And Tory Aitken, who headed up PCAT from 2020 to 2023, conceded that even these smaller amounts are "pretty bad."[488]

238. In 2017, following a years-long investigation of legacy Safeway's theft-and-loss reporting, Safeway entered into an administrative memorandum of agreement with the DEA and, under a separate civil settlement executed at the same time, agreed to pay the United States a $3 million civil penalty.[489] As part of that agreement, the North Bend pharmacy's authority to dispense controlled substances was suspended for six months, with four months of active suspension beginning September 18, 2017, and two months held in abeyance.[490] Safeway did not disagree that its policies "instructed pharmacists not to directly report losses to the DEA and instead report them internally."[491] The DEA expressed the view that, as a result, there were "numerous instances when large quantities of controlled substances would be lost or stolen for significant periods of time before those losses or thefts were eventually reported to the DEA."[492]

239. Ultimately, between 2010 and 2024, Safeway and Albertsons reported theft or losses of at least 115,000 opioid pills.[493]

240. Based on the above, and other evidence adduced at trial, the Court finds that Albertsons' failure to properly staff its pharmacies, its failure to properly train its pharmacists,

---

[487] 7/23/26 am TT (Aitken WA FACT depo (8/22/25)) at 1847:1-12 (discussing P-00818).
[488] 7/23/26 am TT (Aitken WA FACT depo (8/22/25)) at 1846:2-25 (discussing P-00818).
[489] P-00916 at 0002-0005; 8/3/26 am TT (Green WA 30(b)(6) depo (8/13/25)) at 2938:23-2939:3.
[490] P-00916 at 0004-0005; 8/3/26 am TT (Green WA 30(b)(6) depo (8/13/25)) at 2942:24-2943:2; 7/13/26 TT (Covaci WA FACT depo (9/9/25)) at 230:10-13.
[491] 8/3/26 am TT (Green WA 30(b)(6) depo (8/13/25)) at 2939:21-2940:4; 8/3/26 am TT (Green WA 30(b)(6) depo (8/13/25)) at 2940:9-2941:11.
[492] P-00916 at 0002-0003; 8/3/26 am TT (Green WA 30(b)(6) depo (8/13/25)) at 2941:15-21.
[493] P-04013.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

its lax controlled substance policies, combined with its inadequate compliance controls, caused the otherwise preventable diversion of approximately 115,000 opioid pills from its Washington stores.[494]

h. Albertsons Failed to Prevent the Dispensing of Opioid Prescriptions Written by Pill Mill Doctors and/or Obtained for Illicit Purposes

241. The Court also finds that Albertsons failed to timely adopt a system to identify outlier prescribers whose prescriptions bore indicia of non-legitimate purposes and/or injudicious prescribing (*i.e.*, "pill mill" doctors), or to ensure that its pharmacists were investigating these doctors' prescriptions before dispensing. Combined with all the other failures described above, the Court finds Albertsons failed to meaningfully prevent the dispensing of opioid prescriptions written by pill mill doctors and, in so failing, caused the diversion of opioid pills and corresponding harm to the State.

242. As Albertsons concedes—and stated as much in the CE materials it distributed to all its pharmacists in 2013—pharmacists should "[i]dentify area prescribers who most often prescribe narcotic prescriptions and review these prescriptions carefully" in order to "prevent widespread prescription drug abuse and ensure appropriate controlled substance dispensing in the pharmacy."[495]

243. Albertsons knew as early as February 2014 that some of its competitors had compliance personnel that were dedicated completely to monitoring physician prescribing habits.[496] But Albertsons had no such dedicated personnel and, in 2014, any prescriber monitoring by Albertsons was performed on a subjective, ad hoc basis.[497] As noted above, *see*

---

[494] *See* 8/13/26 am TT (Keyes) at 4647:4-12 ("theft of opioids from pharmacies does contribute to oversupply and diversion."); *see also infra* Section II.E.1 (same).

[495] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 603:23-604:9 (discussing P-00323).

[496] 8/17/26 am TT (Price CT9 FACT depo (7/28/23)) at 4907:8-4908:20 (discussing P-00049).

[497] 8/17/26 am TT (Price CT9 FACT depo (7/28/23)) at 4907:8-4908:20 (discussing P-00049).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

supra Section II.D.1.d.i, Albertsons obtained a Controlled Substance Rating tool in February 2015 that had the capability to identify physician prescribing habits, but Albertsons failed to use the tool in Washington for years after it was onboarded.[498]

244. Further, the evidence shows that Albertsons performed only four Prescriber Reviews of Washington prescribers during the relevant time period. The reviewed prescribers were Ona Schulz, Ann Kammeyer, John Hruby, and Sjardo Steneker.[499] Even though the Prescriber reviews identified problematic prescribing, there was no evidence that Albertsons took any action with regard to Schulz, Hruby, or Steneker after performing the Prescriber Reviews.[500]

245. Even if a pharmacist or the compliance department determined that a certain prescriber was writing illegitimate prescriptions, or a customer was filling opioid prescriptions for abuse or drug-dealing, Albertsons had no mechanism to allow its pharmacists to block future prescriptions from that provider or for that customer.[501] Moreover, the evidence showed that Albertsons' management repeatedly discouraged its pharmacists from refusing prescriptions written by pill mill doctors.[502]

246. For instance, in June 2007, an Albertsons loss-prevention specialist reported that a customer had paid $403.09 in cash for OxyContin at Store 471 in Marysville.[503] Before he got the prescription, a store manager "saw him pacing the parking lot and approaching people and it

---

[498] 7/13/26 TT (Covaci WA FACT depo (9/9/25)) at 220:15-21, 221:17-23, 222:12-224:24, 225:16-20 (addressing P-0198); 7/15/26 am TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 565:25-566:3, 566:22-567:6, 567:10-14.

[499] P-00204; P-00464; P-04297; P-00463.

[500] 8/11/26 am TT (Arndorfer depo (7/10/25)) at 4175:1-17, 4176:25:4177:20, 4186:11-23; 7/27/26 am TT (Aitken WA FACT depo (8/22/25)) at 2016:9-2023:7; 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 754:15-756:14.

[501] 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 366:7-12.

[502] *See*, *e.g.*, 8/11/26 pm TT (Nelson WA FACT depo (9/3/25)) at 4286:17-4287:16, 4288:1-4290:2 (discussing P-00937); 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 321:13-24.

[503] P-00982 at 0002.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

looked like he was trying to sell drugs."[504] A woman with him had tried to pay by check and could not produce identification, and he had told a former employee that he had already taken his prescriptions to five different pharmacies.[505] The pharmacist filled the prescription after calling the doctor.[506] The loss-prevention specialist asked Albertsons' DPM, Ms. Stoneback, whether "a subject with multiple people trying to pay for him" should be a red flag. She responded: "Once again, with Oxycontin prescriptions, it is not unusual for multiple people to pay for it. It is expensive, and people do pay cash for it. Since the pharmacist did call the doctor and verified that the script was legitimate, it sounds like the pharmacist was acting on the faith that the doctor did say it was fine."[507]

247. Eventually, Albertsons developed a reputation among its Washington customers for filling opioid prescriptions that other pharmacies refused.[508]

248. Further, the Court heard testimony concerning the third-party IMS/IQVIA prescribing data from the State's data analytics expert, Lacey R. Keller. Ms. Keller holds a Masters of Economics from the New School, and a Bachelor of Business Administration from Washburn University.[509]

249. Ms. Keller testified that Albertsons possessed third-party IMS/IQVIA prescribing data that would have allowed Albertsons and its pharmacists to identify outlier doctors that were prescribing opioids in excess of national and local averages.[510] Specifically, it was possible to identify, by name, prescribers who were writing prescriptions in Washington for opioids and the

---

[504] P-00982 at 0002.
[505] P-00982 at 0002.
[506] P-00982 at 0002.
[507] P-00982 at 0001.
[508] 8/6/26 pm TT (Certo WA FACT depo (8/19/26)) at 3829:23-3830:7 (discussing P-00875); 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 478:5-480:19 (discussing P-00521); 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 707:15-708:23 (discussing P-00130); 8/19/26 pm TT (Covaci) at 5612:15-23, 5623:19-5624:16 (discussing P-03409).
[509] 8/4/26 am TT (Keller) at 3167:9-15.
[510] 8/4/26 am TT (Keller) at 3172:2-3173:18.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

volume and types of opioids they were prescribing.[511] Ms. Keller demonstrated that, had Albertsons preformed an outlier analysis on the data, they would have seen metrics that evidence that some doctors—including those who were later disciplined by the State Medical Commission—prescribed remarkably high numbers of opioid prescriptions with inappropriate MMEs, and did so for years.[512] For example, in one glaring example, Ms. Keller's analysis (which could have been performed by Albertsons) revealed that Dr. Dillinger was issuing an opioid prescription every ten to eleven minutes, assuming an 8-hour workday, a 40-hour week, for 52 weeks a year with no time off or breaks.[513]

250. Ms. Keller's opinions went unrebutted at trial, and the Court found them well supported and credible.

251. Ms. Price, Albertsons' former Director of Pharmacy Compliance, testified that such third-party data would have been useful to Albertsons pharmacists to identify pill mill doctors in their respective areas, and to help detect external diversion,[514] but neither the pharmacists at the Albertsons stores, nor the DPMs or DPOs, had regular access to this data.[515]

252. Importantly, Albertsons had the ability to institute a block or a "hard halt" within its systems to prevent prescriptions for a specific prescriber from being filled.[516] Albertsons' 30(b)(6) designee testified that during the entire relevant time period (2006-2022), including during the peak of Washington's opioid crisis, Albertsons blocked only three Washington prescribers prior to 2022: Dr. Caroline Stoner, Nurse Practitioner Rebecca Pierson, and Dr. Ann

---

[511] 8/4/26 am TT (Keller) at 3178:13-3180:8.
[512] 8/4/26 am TT (Keller) at 3184:11-3187:5 (discussing P-04208); *see also infra* Sections II.D.1.h.i-v.
[513] 8/4/26 am TT (Keller) at 3184:24-3187:5 (discussing P-04208).
[514] 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 420:17-23.
[515] 7/13/26 TT (Covaci WA FACT depo (9/9/25)) at 218:23-220:1; 7/15/26 am TT (Aitken 30(b)(6) depo (8/20/25)) at 558:16-559:22; 8/3/26 pm TT (Stoneback WA FACT depo (9/11/25)) at 3114:2-3115:23; *see also supra* Section II.D.1.d.
[516] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 2 (8/29/25)) at 773:22-774:1.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

Kammeyer.[517] However, this testimony is flatly contradicted by Albertsons' "Blocked Prescriber List," which reveals that Nurse Practitioner Pierson was *not* blocked by Albertsons until November 2023,[518] after the relevant time period. And while the list shows that Dr. Stoner was blocked by Albertsons in March 2019, Albertsons' dispensing data shows that Dr. Stoner did not write any prescriptions that were filled within the State of Washington from 2006 through 2022.[519] It therefore appears that Dr. Kammeyer was the only prescriber actually blocked by Albertsons from 2006 through 2022, and it appears that the block of Dr. Kammeyer applied only to *some* pharmacies, as opposed to all Albertsons and Safeway pharmacies in Washington.[520]

253. Finally, the evidence adduced at trial showed numerous examples of pill mill doctors whose outlier prescriptions were filled by Albertsons—in some cases for years after they were brought to Albertsons' attention by concerned pharmacists—and who were only ever blocked, or "hard halted," after their licenses were suspended or revoked by the State.

254. Several examples are set out below:

i. Ann Kammeyer

255. Between 2006 and 2009, Albertsons pharmacies dispensed just under 100,000 opioid pills per year that were prescribed by Dr. Kammeyer; primarily oxycodone, hydrocodone, and methadone.[521] But starting in 2010, that number began increasing dramatically, peaking in 2014 with over 250,000 opioid pills dispensed by Albertsons.[522]

---

[517] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 2 (8/29/25)) at 791:19-793:12.
[518] P-01372.
[519] P-03962.
[520] 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 502:4-509:14 (discussing P-00525).
[521] 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 471:16-19, 475:6-476:13 (discussing P-00796 at 0001).
[522] 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 476:14-477:8 (discussing P-00796 at 0001).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

256. Dr. Kammeyer did not come to Albertsons' attention due to any of the ad hoc, manual reviews that Ms. Price undertook as the then-Director of Pharmacy Compliance.[523] Instead, in September 2014, Ms. Price received an alarming email from Ms. Stoneback, the DPM of Store 471, informing her that Rite-Aid was no longer filling prescriptions written by Dr. Kammeyer, and that at least one online review accused Dr. Kammeyer of prescribing opioids to drug dealers.[524] Prior to this email, Dr. Kammeyer "wasn't even on [Ms. Price's] radar," despite the clear upward trends in the dispensing data.[525] As Ms. Price explained, at that time, Albertsons lacked the automated tools they eventually obtained that could more quickly help identify outlier prescribers.[526]

257. One month later, in October 2014, Ms. Price generated a prescriber review that noted, *inter alia*, that Albertsons had dispensed over 19,000 methadone pills prescribed by Dr. Kammeyer over a 3-month period, with Store 471 alone dispensing 15,000 methadone pills prescribed by Dr. Kammeyer during that time frame (whereas the average *pharmacy* dispenses 12,500 methadone pills *annually*).[527] The report also noted that 50% of Dr. Kammeyer's prescribed medications were controlled substances, despite her specializing in family medicine, and that she was the fifth highest prescriber of hydrocodone among family medicine physicians in the State of Washington; both of which, Ms. Price concedes, are red flags.[528] Based on the report, Albertsons "did not feel like this was a reputable physician, and there should be some next steps done."[529]

---

[523] 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 477:19-478:4, 479:18-23.
[524] 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 478:5-480:19 (discussing P-00521).
[525] 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 478:12-479:2.
[526] 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 482:11-17.
[527] 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 484:7-485:8, 487:17-18 (discussing P-00464).
[528] 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 485:12-17, 486:3-9, 486:15-21 (discussing P-00464).
[529] 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 487:19-488:11.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

258. But in January 2015, four months after Ms. Price received the email from Ms. Stoneback noting Rite-Aid had stopped filling Dr. Kammeyer's prescriptions, and three months after Ms. Price had generated the prescriber review and concluded that Dr. Kammeyer was not a "reputable physician," Albertsons was still filling prescriptions for Dr. Kammeyer.[530]

259. By May 2015, prescriptions for Dr. Kammeyer had been blocked at Albertsons' Store 471, but there was no block in place for Safeway locations in close proximity,[531] meaning Dr. Kammeyer's patients were able to obtain their opioid pills from nearby Safeway stores.

260. Albertsons continued filling prescriptions for Dr. Kammeyer right up until her license was suspended in September 2015, a full year after Ms. Stoneback's first email.[532]

261. On September 1, 2015, the Washington Medical Commission (then known as the Medical Quality Assurance Commission or MQAC), suspended Dr. Kammeyer's license,[533] and filed a Statement of Charges (SOC) against Dr. Kammeyer, alleging, *inter alia*, that Dr. Kammeyer "routinely prescribe[d] high dosages of opioids," prescribed "life-threatening combination[s] of opioids and benzodiazepines," and engaged in "other serious standard of care violations."[534] The SOC also alleged that Dr. Kammeyer's "incompetence and negligence" created "an unreasonable risk of harm and/or the deaths of three individuals, two of whom were her patients."[535]

262. While the two patient deaths described in the SOC are not attributable to any particular pharmacy, it bears mention that both deaths occurred during the time period between Ms. Stoneback's initial September 2014 email and the September 2015 suspension of Dr.

---

[530] 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 488:12-489:24, 496:14-497:2 (discussing P-00522).
[531] 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 506:1-509:14 (discussing P-00526); 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 2 (8/29/25)) at 790:4-8.
[532] P-01000 at 0002.
[533] P-00319.
[534] P-00999 at 0002-0003.
[535] P-00999 at 0002.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

Kammeyer's license when Albertsons was continuing to fill Dr. Kammeyer's prescriptions despite having knowledge of significant concerns.[536]

263. Further, prior to Ms. Stoneback's email, Store 471 had already been flagged for suspiciously high orders of prescription opioids by the third-party wholesale distributor McKesson in 2012,[537] by Albertsons' own distribution data in 2013,[538] and by Albertsons' distribution personnel in June 2014,[539] but no investigations resulted from those reports.[540] Dr. McCann explained that, taking the ARCOS distribution data concerning these suspiciously high orders for Store 471 and "tracking it back to the dispensing data to see kind of where the root of the issue was" (*i.e.*, Dr. Kammeyer's prescribing), was "not really hard at all."[541] "To do the additional work to find out whose prescriptions are kind of drawing that supply from the warehouse, it's really not a very difficult thing."[542]

264. Between 2006 and 2015, Albertsons pharmacies dispensed 1,266,187 opioid pills prescribed by Dr. Kammeyer.[543]

ii. Dennis Mann

265. From 2006 to 2021, Dennis Mann, D.O., was a prolific prescriber of opioids. During that time, Albertsons annually dispensed tens of thousands of pills prescribed by Dr.

---

[536] P-00999 at 0003-0004 (describing the deaths as occurring on February 10, 2015, and March 22, 2015).
[537] 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 461:5-463:11 (discussing P-00576).
[538] 8/27/26 am TT (Price) at 6750:5-13, 6753:23-6755:20, 6756:21-6757:6, 6760:12-16 (discussing P-00949).
[539] 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 463:20-25, 465:11-471:11 (discussing P-00565).
[540] 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 463:12-25, 465:11-471:11 (discussing P-00565).
[541] 7/21/26 am TT (McCann) at 1308:4-1314:1.
[542] 7/21/26 am TT (McCann) at 1314:20-22.
[543] 7/21/26 am TT (McCann) at 1302:3-23 (discussing P-00796 at 0003-0007).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

Mann.[544] Between 2007 and 2019, Albertsons dispensed over 2,100,000 opioid pills prescribed by Dr. Mann, peaking in 2015 with nearly 200,000 pills dispensed.[545] Evidence adduced at trial showed that 92% of Dr. Mann's prescriptions filled at Albertsons pharmacies had red flags associated with them, with 41% being flagged for cocktail prescriptions.[546]

266. Despite these staggering figures, it would not be until April 2020 before Dr. Mann came to Albertsons' attention, when a number of his patients were flagged in a PCAT report for Store 471.[547] In other words, despite having a number of tools at its disposal to identify suspicious or outlier prescribers in the state, Albertsons overlooked Dr. Mann's copious prescribing patterns for 12 years, and then only discovered them by happenstance.

267. As explained above in Section II.D.1.d.i, the 2020 PCAT report revealed numerous alarming red flags associated with Dr. Mann's prescriptions, with almost all of them exceeding the daily 90 MME threshold recommended by the CDC, and with one notable patient receiving an astonishing 590 MMEs *per day*.[548] Further, the prescriber review within the PCAT report revealed that Dr. Mann accounted for almost 60% of all oxycodone HCL 30mg, and 31% of all methadone 10mg dispensed at Store 471.[549] The review also stated that Dr. Mann's IMS/IQVIA rating was 100 for six different prescription opioids, including oxycodone and methadone, and in the upper 90s for several more.[550]

---

[544] 8/11/26 am TT (Arndorfer WA FACT depo (7/10/25)) at 4196:24-4197:24 (discussing P-00755).
[545] P-00755 at 0001; P-04177 at 0003
[546] 7/20/26 pm TT (McCann) at 1216:7-24 (discussing P-03506).
[547] P-00191.
[548] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 686:21-24 (discussing P-00191); P-00191 at 0004.
[549] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 703:25-704:3 (discussing P-00191 at 0006-0007).
[550] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 704:9-705:9 (discussing P-00191 at 0006-0007).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

268. The PCAT report ended with a "Store Action Plan and Recommendations" list, but made no mention of Dr. Mann or any other prescribers.[551] Albertsons took no action to further investigate Dr. Mann or implement any kind of "hard halt."[552] Had Albertsons' compliance team reviewed the IMS/IQVIA data it had at its disposal, it would have learned that Dr. Mann was among the top 20 prescribers of prescription opioids in the state.[553] But no such review was undertaken, and the PCAT report was never shared with any of the pharmacists or regional managers in the areas where Dr. Mann's prescriptions were being filled, despite Albertsons' admission that such sharing "would have been helpful."[554]

269. In April 2021, a year after the above-mentioned report should have set off alarm bells but resulted in no investigations or corporate blocks, an Albertsons pharmacist emailed his DPM, Michael Arndorfer, and raised additional concerns regarding Dr. Mann.[555] The pharmacist reported receiving a "flood of patients" who were coming to his store because "[t]he Rite-Aid across the street is refusing to fill controlled medications for a local prescriber, Dennis Mann. . . We are told by the staff at Rite Aid that this doctor is under investigation . . . Almost every opioid is accompanied by a benzo."[556]

270. Despite being informed that Dr. Mann was under investigation and that Rite-Aid was refusing to fill his prescriptions, Albertsons continued filling prescriptions until December 2021,[557] when Dr. Mann reached an agreement with MQAC to wind down his practice and

---

[551] P-00191 at 0008.
[552] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 686:19-20, 690:10-20, 695:22-697:20, 698:21-700:2, 700:25-702:10, 702:25-705:17, 706:10-15, 709:13-17 (discussing P-00191).
[553] P-04210.
[554] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 710:10-24.
[555] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 707:15-20, 708:2-13, 709:13-17 (discussing P-00129).
[556] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 707:15-708:23 (discussing P-00130).
[557] P-04177 at 0001-0005.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

surrender his license to prescribe controlled substances.[558] Notably, the Statement of Charges filed against Dr. Mann alleged bad acts, including "failure to recognize the danger of combining opiates and benzodiazepines," spanning almost the entire relevant time period.[559]

iii. Ona Schulz

271. In October 2020, an internal Controlled Substance Dispensing Review was conducted for an Albertsons pharmacy in Mount Vernon, Washington.[560] The report identified a husband and wife who were receiving prescription fills for OxyContin pills at the 80mg strength (the highest available), and who had previously been caught selling OxyContin in 2012 and had been "kicked out" of Haggen pharmacies.[561] The report noted that a prior pharmacist in charge had determined "not to fill for them–no exceptions,"[562] and also identified the prescriber as a physician's assistant named Ona Schulz.[563]

272. At this time, MQAC had already filed a Statement of Charges against Ms. Schulz in June 2019, alleging a "pattern of prescribing demonstrat[ing] inadequate training with regard to treating patients with and prescribing long-acting opioids."[564]

273. Albertsons' report went on to note that Ms. Schulz's IMS/IQVIA CSR rating was 100 for numerous controlled substances, including oxycodone, and that she had an upcoming review with MQAC in December 2020.[565] The report also found "[i]ndications that that proper

---

[558] P-01345; P-01350 at 0004.
[559] P-01340 at 0002-0005.
[560] 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 311:1-15 (discussing P-00622); 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 735:1-10, 737:25-738:25 (discussing P-00161).
[561] 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 311:10-312:5, 321:13-24 (discussing P-00622).
[562] 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 312:12-19 (discussing P-0622).
[563] 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 312:20-313:2, 323:2-7 (discussing P-00622).
[564] 8/11/26 am TT (Arndorfer WA FACT depo (7/10/25)) at 4205:7-25 (discussing P-00692); P-00692 at 0002.
[565] 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 313:21-314:4 (discussing P-00622).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

procedures are not being used for screening and people feel [Ms. Schulz's] office is now just focused on money."[566]

274. Further, while the October 2020 Controlled Substance Dispensing Report noted the pharmacist's refusal to fill prescriptions for the couple that had been caught selling their OxyContin, a subsequent Albertsons pharmacist inexplicably circumvented that decision and continued filling OxyContin and Percocet together for them.[567] Ms. Covaci, Albertsons' Director of Compliance at the time of the review, stated that the subsequent filling of these prescriptions without documenting the reason for overriding the prior instruction "violates our company policy."[568] Nevertheless, the evidence at trial showed that Albertsons continued filling prescriptions for OxyContin and Percocet for these patients for another two years.[569]

275. Albertsons subsequently conducted a Prescriber Review of Ms. Schulz's controlled substance prescribing, identifying numerous, alarming red flags.[570]

276. Despite Albertsons' acknowledgement that some follow-up should have been done following the above two reports, there is no indication that Albertsons took any action against Ms. Schulz, nor issued any warning, advisory, or notification to any pharmacist in the State of Washington, nor instituted a corporate block on her prescriptions, until her license was restricted by the State in November 2020.[571]

---

[566] 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 324:2-7 (discussing P-00622).
[567] 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 321:13-24.
[568] 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 321:13-24.
[569] 8/11/26 am TT (Arndorfer depo (7/10/25)) at 4211:17-4212:2 (discussing P-01245).
[570] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 746:8-16, 748:3-749:6, 752:7-12 (discussing P-00204).
[571] 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 324:21-23, 325:24-326:3; 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 756:6-14; *see also* P-03523 (showing prescriptions written by Ms. Schulz and filled by Albertsons pharmacies through 2021); P-00735 (Washington State DOH FOFCOL and Final Order re Ona Schulz (11/9/20)).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

277. Between 2011 and 2021, Albertsons dispensed over half a million opioid pills prescribed by Ms. Schulz.[572]

iv. Richard Kirkpatrick

278. In a September 2020 PCAT report, Albertsons identified Dr. Richard Kirkpatrick as a prolific prescriber of opioids, noting high IMS/IQVIA scores for his prescribing of opioids.[573] Specifically, he scored 99 for oxycodone and 98 hydrocodone, and received an overall controlled substances score of 100.[574]

279. Following this report, no statewide notice was provided by Albertsons to its regional managers and pharmacists about Dr. Kirkpatrick, and no prescriber review was done.[575]

v. Janet Arnold

280. In September 2015, an Albertsons pharmacist emailed his regional manager regarding a "couple of doctors with questionable practices I was talking to you about."[576] The pharmacist identified Dr. Janet Arnold and explained that she had been advising her patients to pay for their prescriptions in cash in order to get around any restrictions implemented by their insurance providers, and that "[a]lmost every script I have seen from her is an early refill."[577] In response to the email, the Albertsons DPM who supervised pharmacies in the area around Dr. Arnold's practice asked Ms. Covaci, Albertsons' Director of Compliance, to "run a report and see if the doctors mentioned below have suspect scripts."[578] Albertsons concedes that the claims

---

[572] P-03985 at 0004.

[573] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 710:25-711:7, 716:14-717:8 (discussing P-00344).

[574] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 710:25-711:7, 716:14-717:8 (discussing P-00344).

[575] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 719:15-23.

[576] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 2 (8/29/25)) at 793:16-794:5 (discussing P-00537).

[577] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 2 (8/29/25)) at 794:14-796:13 (discussing P-00537).

[578] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 2 (8/29/25)) at 796:14-23 (discussing P-00537).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

made in the email warranted "look[ing] into that doctor further," but no prescriber review of Dr. Arnold was conducted based on the concerns raised in the above email.[579]

281. Had Albertsons conducted such a review, it would have learned through publicly available documents that 10 years prior, in July 2004, the Washington Medical Commission determined that Dr. Arnold had prescribed large quantities of methadone, morphine, Valium, and oxycodone to her patients, that she "formed a close relationship with [a patient] that transcended the normal patient-physician boundaries," and further that "her prescribing practices for patient pain management appeared to put these patients at an unreasonable risk of harm and/or may have been non-therapeutic."[580] As a result of these findings, Dr. Arnold agreed to allow the medical commission to perform a compliance review at her office, and agreed to be subject to the Medical Commission's oversight for 18 months.[581]

282. Ms. Keller also testified that the IMS/IQVIA data to which Albertsons had access showed that in 2005 and 2006, Dr. Arnold's opioid prescribing was close to twenty times the state and national averages for family and general practitioners.[582] That data also showed her opioid prescribing falling close to zero around 2007 and resuming in late 2015 and early 2016.[583]

283. Instead of conducting the prescriber review contemplated in the September 2015 email, or reviewing the IMS/IQVIA data at its disposal, Albertsons began dispensing *increasing* numbers of opioid pills prescribed by Dr. Arnold.[584] After taking no action on the September 2015 internal complaint about Dr. Arnold, Albertsons again received notice about concerns regarding Dr. Arnold from one of its field evaluators, who wrote in April 2016 that "[n]o one in

---

[579] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 2 (8/29/25)) at 797:3-9 (discussing P-00537).
[580] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 2 (8/29/25)) at 813:23-814:14, 815:13-816:2, 816:12-16, 817:10-21 (discussing P-00706).
[581] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 2 (8/29/25)) at 818:8-17 (discussing P-00706).
[582] 8/4/26 am TT (Keller) at 3187:11-3188:22 (discussing P-04209).
[583] 8/4/26 am TT (Keller) at 3218:19-3219:20 (discussing P-04209).
[584] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 2 (8/29/25)) at 819:1-2, 819:22-821:4, 821:16-22 (discussing P-00780).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

the area feels comfortable filling prescriptions written by [Dr. Arnold]."[585] Despite this second warning to Albertsons about concerning prescribing behavior by Dr. Arnold, no corporate block or hard halt was put in place, and the volume of opioid pills prescribed by Dr. Arnold and dispensed by Albertsons *peaked* in 2016.[586] In fact Albertsons' own dispensing data reveals that in 2016, Albertsons dispensed over 38,000 opioids pills prescribed by Dr. Arnold.[587]

284. In May 2017, Albertsons was still hearing from its pharmacists who were flagging prescriptions being written by Dr. Arnold. In one instance, a concerned pharmacist who informed his DPM that Dr. Arnold had enforcement actions pending against her was told, "enforcement actions do not mean the script is invalid . . . None of this invalidates the prescription . . . you must use your professional judgment."[588]

285. Albertsons continued dispensing Dr. Arnold's opioid prescriptions into June 2017,[589] and stopped only when Dr. Arnold's license was summarily suspended by the Medical Commission for the "prescribing of excessive quantities and doses of controlled substances" and for "creat[ing] an unreasonable and imminent risk of patient harm or death."[590] Specifically, the Medical Commission found that Dr. Arnold frequently wrote prescriptions for "[controlled substances] in large quantities and in combinations of lethal doses."[591] Moreover, the commission found that a review of the PMP—to which Albertsons had access—"reveals indiscriminate prescribing of Schedule II and III opioid medication" and "*strongly suggest[s]*

---

[585] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 2 (8/29/25)) at 822:4-823:7 (discussing P-00538).
[586] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 2 (8/29/25)) at 823:18-824:9, 827:6-9; P-00780 at 0001.
[587] 7/16/26 am TT (Aitken WA 30(b)(6) depo vol. 2 (8/29/25)) at 821:16-22 (discussing P-00780).
[588] 7/16/26 am TT (Aitken WA 30(b)(6) depo vol. 2 (8/29/25)) at 824:10-827:5.
[589] P-00780 at 0001, 0008.
[590] 7/15/26 pm TT (Aitken WA 30(b)(6) depo vol. 2 (8/29/25)) at 828:8-829:16 (discussing P-00707).
[591] P-00707 at 0003.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

drug diversion."[592] Ultimately, Dr. Arnold's medical license was permanently revoked when the Medical Commission determined she "could never be rehabilitated."[593]

286. Dr. Arnold was subsequently indicted for issuing prescriptions without a legitimate medical purpose,[594] and sentenced to 4 years imprisonment.[595]

* * *

287. Based on the above, the Court finds that Albertsons failed to meaningfully prevent the dispensing of opioids prescribed by pill mill doctors and failed to give its pharmacists the tools necessary to identify and prevent the dispensing of opioid prescriptions written by those doctors or presented by suspicious patients. Moreover, Albertsons presented no evidence at trial that it conducted prescriber reviews on any *other* medical prescribers who were disciplined by the Washington Medical Commission or Washington State Board of Nursing relating to their opioid prescribing practices.

i. Albertsons Dispensed Inappropriate Quantities of Opioid Pills to Individual Patients

288. The State introduced substantial evidence proving, and the Court finds, that Albertsons dispensed opioids to individual patients in unjustifiable quantities that grossly exceeded any reasonable standards.

289. For example, over the course of one month (May 2010), a single Albertsons patient (patient "4661c0fd") made 10 separate visits to Albertsons' Store 1294 in Kent, where he was dispensed over *five thousand* oxycodone pills.[596] Although Albertsons represented during opening statement that it would present the Court with an explanation for the dispensing of such

---

[592] P-00707 at 0003.
[593] 8/3/26 am TT (Karinen) at 3019:25-3021:8.
[594] P-01663.
[595] P-01661.
[596] P-03830 (1006 regarding patient "4661c0fd").

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

a large quantity of controlled substances to that patient over a one-month period,[597] it never did. Additionally, during 20 separate visits, between February and September 2010, Albertsons dispensed over a thousand oxycodone pills to this one customer.[598] Presented with this data, Dr. Duhigg testified that "it's hard to imagine that there's any legitimate use for that many pills," as it is a volume "far beyond any numbers of reasonable prescribing."[599] Ultimately, between February 2009 and September 2010, Albertsons Store 1294 dispensed 62,720 oxycodone/OxyContin pills to patient 4661c0fd.[600]

290. At Albertsons' Store 1493 in SeaTac, between January 2006 and September 2010, one customer (patient "ccdb451c") regularly received prescription fills of a thousand or more methadone pills at each visit.[601] On 10 separate occasions, spanning eight months, this one patient received 1,400 or more methadone pills per visit.[602] Ultimately, in less than five years, patient ccdb451c received 76,402 methadone pills from Store 1493.[603]

291. From 2008 to 2015, spanning 100 visits to Albertsons' Store 1930 in Lynden, one customer (patient "911ea844") received 1,200 methadone pills each and every time he visited the pharmacy.[604]

292. Similarly, from 2008 to 2010, spanning 22 visits to Albertsons' Store 3247 in Grand Coulee, one customer (patient "c9068618") received 1000 or more methadone pills with each visit.[605]

---

[597] 7/13/26 pm TT (Albertsons' opening) at 89:23-90:2.
[598] P-03830 (1006 regarding patient "4661c0fd").
[599] 7/16/26 pm TT (Duhigg) at 1022:14-1023:1.
[600] P-03830 (1006 regarding patient "4661c0fd").
[601] P-03825 (1006 regarding patient "ccdb451c").
[602] P-03825 (1006 regarding patient "ccdb451c").
[603] P-03825 (1006 regarding patient "ccdb451c").
[604] P-03826 (1006 regarding patient "911ea844").
[605] P-03827 (1006 regarding patient "c9068618").

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

293. From 2006 to 2021, one customer (patient "12e6dde6") received 218,209 opioid pills from Albertsons, including oxycodone 80mg, hydrocodone, methadone, and morphine, for an average of 1,185 opioid pills a month, with the majority coming from Store 496 in Federal Way.[606]

294. In all of the instances described above, there is no conclusion but that some or all of those pills were diverted, as no reasonable medical purpose for such dispensing volume was provided by Albertsons during trial.

295. Importantly, the State's expert, Dr. Keyes, testified that people who use low, medium, or high dose prescription opioids are at a substantially higher risk of developing OUD than those who do not: patients who take a high dose, meaning over 120 MMEs per day, are 122.45 times more likely to develop OUD; patients taking a medium dose of 36-120 MMEs per day are 28.69 times more likely to develop OUD; and even patients taking a low dose of 1-36 MMEs per day are 14.92 times more likely to develop OUD.[607] Compared to prior mental health disorders, prior alcohol abuse, prior non-opioid substance use disorders, the dose-response relationship with even low dose prescription opioids is much higher.[608]

296. Comparing this dose-response relationship to the Controlled Substance Dispensing Reviews, where Albertsons noted insufficient red flag documentation,[609] is illuminating. For just the time period spanning 2020 to 2021, encompassing only seven stores (Store 2637 in Kelso, Store 471 in Marysville, Store 1078 in Longview, Store 1159 in Newport, Store 3493 in Ferndale, and Stores 1472 and 3450 in Mount Vernon), Albertsons identified 145 high dose prescriptions, 117 medium dose prescriptions, as well as 41 individual patients who

---

[606] P-03828 (1006 regarding patient "12e6dde6").
[607] 8/12/26 am TT (Keyes) at 4468:11-4470:2 (discussing P-04247 at 00013).
[608] 8/12/26 am TT (Keyes) at 4468:11-4470:2 (discussing P-04247 at 00013).
[609] 7/15/26 pm TT (Aitken WA 30(b)(6) depo (8/20/25)) at 726:6-11 ("Typically, what is listed here are the ones that lacked sufficient documentation.").

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

received trinity prescriptions, with no due diligence documented.[610] Notably, these reports are only a small sample of the red-flagged prescriptions lacking due diligence found at Albertsons' pharmacies during a narrow window of time.[611]

j. Albertsons Put Profits Over Safety

297. Based on the evidence adduced at trial, the Court finds that Albertsons' myriad compliance failures described above were a symptom of Albertsons' focus on sales and profits, to the exclusion of patient safety.

298. Albertsons studied the value of its pharmacy customers to its bottom line and determined that pharmacy customers were roughly four times more valuable to Albertsons and Safeway than non-pharmacy customers.[612] In fact, multiple Albertsons witnesses referred to its pharmacy customers as "sticky" or "stickier" customers.[613]

299. In February 2015, Albertsons identified its top three priorities as "$ales!, $ales!, $ales!"[614] When Mr. Green, DPO for the Seattle Division, met with pharmacy managers from across the State of Washington, he presented a slide deck on "[m]ethods to increase prescription volume in the community setting."[615] Included within the presentation to the Washington pharmacists was the statement, "[i]n any given moment we have two options: to step forward into growth or to step back into safety."[616]

300. Albertsons' actions were true to its words when it came to prioritizing sales over compliance. While Ms. Price was the Director of Pharmacy Compliance from 2012 through

---

[610] P-00375 (Store 2637 in Kelso); P-00191 (Store 471 in Marysville); P-00344 (Store 1078 in Longview); P-00347 (Store 1159 in Newport); P-00164 (Store 3493 in Ferndale); P-00161 (Store 1472 in Mount Vernon); and P-00140 (Store 3450 in Mount Vernon).
[611] 7/14/26 am TT (Covaci NM Fact (2/9/22)) at 365:5-11.
[612] 7/29/26 am TT (Green) at 2516:25-2519:24 (discussing P-00229 at 0040).
[613] 9/8/26 pm TT (DalPonte) at 8072:3-15l; 7/29/26 am TT (Green) at 2518:23-2519:6; 8/10/26 pm TT (Arndorfer WA FACT depo (7/10/25)) at 4104:11-25.
[614] P-04400 at 0003.
[615] 7/29/26 am TT (Green) at 2515:9-2516:24 (discussing P-00229).
[616] P-00229 at 0039.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

2015, she had sales responsibilities in addition to her compliance obligations.[617] Two of Ms. Price's top listed achievements on her 2014 Performance Review were sales initiatives related to rolling out Stay Healthy kiosks and opening retail clinics.[618] This was true despite the fact that the same Performance Review listed controlled substance monitoring of external diversion as an "opportunity."[619]

301. Time after time, when Albertsons was presented with an opportunity to choose compliance or safety over sales, it chose sales. In 2018, Albertsons learned that Walmart was implementing a 7-day limit on "first fill day" supplies of opioid prescriptions.[620] Despite acknowledging that the limitation imposed by Walmart was intended to address the opioid epidemic, [621] Mr. Massaad, Albertsons' Vice President of Pharmacy Operations, confirmed that if Albertsons likewise filled prescriptions for fewer tablets, it would result in fewer sales to Albertsons.[622] Importantly, Albertsons had known about—and had been discussing—states implementing such restrictions as far back as July 2016 in its Pharmacy Compliance Committee meetings.[623] But when confronted with the information that Walmart was changing its policy, Albertsons decided it was "[n]ot ready to impose a blanket 7 day limit," and one executive opined that Albertsons should "hold off on a company policy for as long as possible."[624]

302. Another example of Albertsons choosing sales and profits over compliance and safety relates to its actions around Promethazine with codeine (known as "purple drank"), an

---

[617] 8/27/26 am TT (Price) at 6715:25-6718:21.
[618] 8/27/26 am TT (Price) at 6715:25-6718:21 (discussing P-00079).
[619] P-00079 at 0004. "Opportunity" was a euphemism frequently used by Albertsons to describe an area in need of improvement.
[620] P-00497 at 0002.
[621] 8/4/26 pm TT (Massaad WA FACT depo (8/28/25)) at 3315:12-18.
[622] 8/4/26 pm TT (Massaad WA FACT depo (8/28/25)) at 3313:9-3314:9.
[623] 8/4/26 pm TT (Massaad WA FACT depo (8/28/25)) at 3316:3-3317:13 (discussing P-00550 at 0074).
[624] 8/4/26 pm TT (Massaad WA FACT depo (8/28/25)) at 3317:14-3322:21 (discussing P-00497).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

opioid. In 2016, the State of Washington advised pharmacies, including Albertsons, about diversion activity connected to the drug.[625] In 2017, Mr. Provenzano, Albertsons' Vice President of Pharmacy Compliance, became aware of repeated robberies of Albertsons pharmacies where Promethazine with codeine was being targeted.[626] He also learned that it was unnecessary for pharmacies to carry the drug because there were other therapeutic options available for Albertsons customers.[627] But in 2022, Albertsons was still carrying Promethazine with codeine, despite receiving notice that Walgreens and CVS were going to join Walmart and Rite-Aid in removing the drug from their stores.[628] Albertsons internally acknowledged that the fact that its competitors were removing the drug from its stores would "significantly increase our risk of theft, employee endangerment, and fraudulent prescriptions."[629] But Albertsons executives then asked to see the sales information for Promethazine with codeine, and upon finding out that Albertsons was filling approximately 2,000 prescriptions for the drug per period, Albertsons executives stated that " [w]e can lock it in the safe, but getting out of [the drug] altogether is stupid," and "[w]e aren't getting out of it."[630]

2. Albertsons' Failures as a Distributor to Comply with its Obligations Under the CSA and Washington Law

a. Albertsons' Failure to Identify, Report, or Block Suspicious Orders

303. For portions of the relevant time period, Albertsons acted as its own wholesale distributor of prescription opioids. From its Ponca City Distribution Center, Albertsons distributed CIII-V opioids to its various pharmacies from 2006-2008, and CII-V opioids from 2013-2016.[631]

---

[625] 9/1/26 pm TT (Provenzano) at 7288:8-7292:5 (discussing P-00906).
[626] 9/1/26 pm TT (Provenzano) at 7292:16-7295:14 (discussing P-00486).
[627] 9/1/26 pm TT (Provenzano) at 7292:16-7295:14 (discussing P-00486).
[628] 9/1/26 pm TT (Provenzano) at 7297:13-7298:7 (discussing P-00549).
[629] 9/1/26 pm TT (Provenzano) at 7298:8-16 (discussing P-00549).
[630] 9/1/26 pm TT (Provenzano) at 7299:11-7304:6 (discussing P-00549).
[631] 8/13/26 am TT (Provenzano WA 30(b)(6) depo (9/9/25)) at 4747:14-4748:14.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

304. Albertsons' current Vice President of Pharmacy Compliance and Government Affairs, Mr. Provenzano, conceded, and the Court finds, that Albertsons had a duty as a distributor under DEA regulations to design and implement a suspicious order monitoring system (SOMS) to identify and report suspicious orders from its stores, and to prevent shipment of suspicious orders without further investigation. Dkt. 633 ¶¶ 5-6. Albertsons attempted to downplay the volume of opioids it shipped into Washington by highlighting the percentage of all opioid shipments into Washington it accounted for from 2006 to 2021 as 4 out of 1,000.[632] But that statistic is misleading, as it counts opioids during the time in which Albertsons was not distributing. The evidence at trial showed that Albertsons self-distributed over 30 million dosage units of opioids into Washington.[633]

305. Under 21 C.F.R. § 1301.74, "suspicious orders" are defined as "orders of unusual size, orders deviating substantially from a normal pattern, and orders of unusual frequency."

306. On December 27, 2007, the DEA sent a letter to all registrants—including Albertsons—with the purpose of reiterating each registrant's responsibilities as controlled substance manufacturers and distributors to inform the DEA of suspicious orders in accordance with 21 C.F.R. § 1301.74(b).[634] The letter advised Albertsons that "the regulation specifically states that suspicious orders include orders of unusual size, orders deviating substantially from a normal pattern, and orders of unusual frequency."[635]

---

[632] DX4084 at 222.
[633] P-01381.
[634] 8/13/26 am TT (Provenzano WA 30(b)(6) depo (9/9/25)) at 4753:22-4755:9 (discussing P-00069).
[635] 8/13/26 am TT (Provenzano WA 30(b)(6) depo (9/9/25)) at 4756:20-4757:6 (discussing P-00069).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

307. When it received the letter, Albertsons understood that DEA regulations required it to report suspicious orders, and that it was responsible for designing and operating a system to identify suspicious orders of controlled substances.[636]

308. Albertsons did not present any credible evidence or argument to challenge the existence of these duties, and as noted above, the Court previously held these that duties exist as a matter of law. *See* Dkt. 633.

309. However, the evidence reveals, and the Court finds, that Albertsons violated these duties and failed to guard against diversion as a distributor. Albertsons' distribution practices singularly focused on maximizing the opioid supply to its pharmacies and ignored its legal duty to maintain effective anti-diversion controls, including implementing an effective SOMS.

310. Instead of having a SOMS that identified orders of unusual size, unusual frequency, and orders deviating substantially from a normal pattern—as required by law—Albertsons employed nebulous "gut feeling" (2006-2008) and "threshold-based" (2013-2016) systems that identified suspicious orders based almost entirely on the pharmacies' order histories. DEA never approved or endorsed any SOMS used by Albertsons, and Albertsons' Distribution Center Operations Manager could not recall or provide details about any DEA review of Albertsons' SOMS during any DEA inspections.[637] However, Albertsons' "gut feeling" and "threshold-based" systems were both in contradiction to the SOMS guidance provided by DEA to Albertsons in the 2007 Dear Registrant letter.[638]

311. More specifically, during the 2006-2008 time period, Albertsons' Ponca City Distribution Center employees ("selectors") would use their "gut feeling" to determine whether an order did or did not look right before shipping, and Albertsons had no written criteria or

---

[636] 8/13/26 am TT (Provenzano WA 30(b)(6) depo (9/9/25)) at 4755:21-4756:19.
[637] P-00069; 8/13/26 pm TT (Beck NM FACT depo (2/18/22)) at 4851:20-4852:22.
[638] P-00069.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

training to help them determine which orders were suspicious.[639] Albertsons' system did not flag orders of unusual frequency or orders that substantially deviated from a store's normal ordering pattern.[640]

312. In the limited instances in which Albertsons' deficient system identified a suspicious order, Albertsons would contact the store *only* to confirm the order was not a mistake and, provided the order was correct, Albertsons would immediately ship the order in full without notifying the DEA.[641] If the order volume was a mistake, the distribution center would simply reduce the order to its intended volume and ship it within 24 hours.[642]

313. When contacted by the distribution hub, Albertsons' pharmacists would often justify the large orders by pointing to information that, under the most basic scrutiny, showed that the orders were illegitimate on their face (*e.g.*, approving a 307% increase in a fentanyl order because "1 pt gets 10 boxes at a time";[643] approving a 233% increase in a hydromorphone order getting because "no answer, called twice";[644] approving a 126% increase in an oxycodone order because "rx down the street quit taking scripts";[645] approving a 282% increase in an oxycodone order because "we have 1 patient gets 1000 tabs";[646] approving a 288% increase in an oxycodone order because "don't know, but will use them";[647] and approving a suspicious order because one patient receives 800 hydromorphone tablets per month.[648]

---

[639] 8/13/26 pm TT (Provenzano WA 30(b)(6) depo (9/9/25)) at 4766:23-4767:25.
[640] *See* P-00949 (Albertsons' Above Threshold Report, containing no reference to stores' order frequencies or patterns).
[641] 8/13/26 pm TT (Provenzano WA 30(b)(6) depo (9/9/25)) at 4771:5-13; 8/13/26 pm TT (Beck NM FACT depo (2/18/22)) at 4839:6-4840:6, 4822:1-4825:18, 4849:4-10.
[642] 8/13/26 pm TT (Provenzano WA 30(b)(6) depo (9/9/25)) at 4768:1-25.
[643] P-00949.
[644] P-00949.
[645] P-00949.
[646] P-00949.
[647] P-00949.
[648] 8/13/26 pm TT (Provenzano WA 30(b)(6) depo (9/9/25)) at 4787:11-14.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

314. During the 2013-2016 time period, electronic orders were added to an "above-threshold report" spreadsheet that tracked the average of the prior 10-12 orders for each pharmacy and identified those that were more than 20 percent above that average.[649] Consistent with the 2006-2008 time period, provided the orders were not a mistake, they would all be shipped in full within 24 hours.[650]

315. Further, even though the call notes from the Above Threshold Report were sent to Albertsons' Director of Compliance, they were reviewed by only one person who never once instructed the warehouse to cut or cancel any order.[651] In fact, from 2013 to 2016, Albertsons' Ponca City Distribution Center never cancelled or rejected any order.[652] Nor did it ever report a suspicious order to the DEA.

316. Under that "threshold" system, Albertsons flagged 11,953 order lines from its Washington pharmacies between 2013 and 2016 as exceeding the ordering store's average.[653] Only 858 of those lines carry any comment, and only 483 identify both a distribution-center employee who called and a person at the pharmacy who answered.[654] Unless the pharmacy said the order was a mistake, the order was shipped as the pharmacy requested.[655]

317. Applying the criterion in Albertsons' own description of its suspicious order monitoring system—an order more than 20 percent over the average of the prior eleven

---

[649] 8/13/26 pm TT (Provenzano WA 30(b)(6) depo (9/9/25)) at 4769:18-4770:3; 8/13/26 pm TT (Beck NM FACT depo (2/18/22)) at 4839:6-4840:6, 4842:1-22, 4849:4-10.
[650] 8/13/26 pm TT (Provenzano WA 30(b)(6) depo (9/9/25)) at 4771:5-13.
[651] 8/17/26 am TT (Price CT9 FACT depo (7/28/23)) at 4890:13-4893:11.
[652] 8/13/26 pm TT (Beck NM FACT depo (2/18/22)) at 4850:19-4851:2.
[653] 8/13/26 pm TT (Provenzano WA 30(b)(6) depo (9/9/25)) at 4779:18-21; P-00949 (11,953 orders were flagged when Column O is filtered to ORDER QTY > 20% OF STORE AVG and ORDER QTY > STORE AVG + SOM).
[654] P-00949 (Comments, Comments2, Caller and Contact columns, filtered as in n.658, *supra*); 8/13/26 pm TT (Provenzano WA 30(b)(6) depo (9/9/25)) at 4778:20-4779:2, 4779:18-21.
[655] 8/13/26 pm TT (Provenzano WA 30(b)(6) depo (9/9/25)) at 4771:5-13; 8/13/26 pm TT (Beck NM FACT depo (2/18/22)) at 4851:14-19.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

orders[656]—to Albertsons' shipments to its own pharmacies, Dr. McCann found that 9,979,905 of the 30,202,685 dosage units Albertsons shipped to its own pharmacies, or 33 percent, would have exceeded Albertsons' own threshold.[657]

318. Testimony indicated that Albertsons' automatic host system or max pick system may have been implemented to reduce some opioid orders prior to reaching the distribution warehouse.[658] But Albertsons offered no evidence as to the details of how that system operated, what criteria were used or applied to reduce any orders, or the number of orders that were actually reduced. Further, the evidence showed that the distribution warehouse would still receive excessive orders despite the purported implementation of the automatic system.[659] The Court accordingly finds this "host system" or "max pick" process was ineffective if actually implemented, and did not function as an effective SOMS component.

319. In 2016, upon the closing of its distribution program, Albertsons' warehouse sent all of its remaining opioid drugs to its pharmacies across the country, despite the fact that its pharmacies did not order them.[660] Albertsons' Director of Pharmacy Compliance observed that such an action could potentially be "dangerous or problematic" and presented a heightened risk of diversion.[661]

320. The Court finds that the "host system," "gut feeling," and "above threshold" systems failed to comply with federal and state law. In fact, even Albertsons concedes that the December 2007 DEA letter advised registrants *not* to simply use formulas that compare current orders to past orders.[662]

---

[656] P-00074 at 0002.
[657] 7/20/26 am TT (McCann) at 1153:13-22; 7/21/26 pm TT (McCann) at 1467:11-19, 1469:1-8, 1469:22-1470:24; P-04110; P-00074.
[658] 8/6/26 pm TT (Provenzano CT9 30(b)(6) depo (8/10/23)) at 3814:24-3815:15.
[659] 8/6/26 pm TT (Provenzano CT9 30(b)(6) depo (8/10/23)) at 3815:24-3816:4.
[660] 8/17/26 am TT (Price CT9 FACT depo (7/28/23)) at 4904:13-4905:23; P-0076.
[661] 8/17/26 am TT (Price CT9 FACT depo (7/28/23)) at 4906:16-4907:7.
[662] 8/13/26 pm TT (Provenzano WA 30(b)(6) depo (9/9/25)) at 4765:18-4766:21.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

321. That finding is further supported by evidence that, during the entire relevant time period, Albertsons *never* reported *any* suspicious orders to the DEA from any of its pharmacies, including those in Washington,[663] despite flagging nearly 12,000 order lines from its Washington pharmacies alone as exceeding its own thresholds. *See supra* FOF ¶ 316.

b. Albertsons' Failure to Act on Information Gleaned from its SOMS

322. Albertsons could have, but did not, use the information it gleaned from its SOMS to monitor the dispensing of controlled substances from its pharmacies.

323. In 2013, Albertsons built an Over Threshold Report that flagged every order exceeding the average order of the pharmacy by 20%.[664] The Over Threshold Reports could have been reviewed by Albertsons to identify trends or outliers at Washington pharmacies. While Ms. Price testified that these reports were a tool that she used to identify pharmacies to investigate,[665] there was no evidence presented at trial that such a review ever led to an investigation of any Washington pharmacies. Had the data been properly reviewed, problematic controlled substance dispensing would have been discovered.

324. For instance, a review of the dispensing volume of oxycodone at Store 213 in Richland shows a sharp increase in the dispensing of oxycodone from 2014 through 2016.[666] Albertsons' Over Threshold Report shows that Albertsons shipped 107 suspicious orders of oxycodone to Store 213 in 2015 alone.[667] Of the 107 suspicious orders, 50 were more than 100% over the average order, and only four contained comments explaining why the suspicious orders

---

[663] 8/13/26 pm TT (Provenzano WA 30(b)(6) depo (9/9/25)) at 4757:3-4758:2, 4772:3-19; 8/13/26 pm TT (Beck NM FACT depo (2/18/22)) at 4853:10-17.
[664] 8/17/26 am TT (Mills CT9 FACT depo (7/25/23)) at 4923:19-4925:16.
[665] 8/27/26 am TT (Price) at 6727:14-6729:12.
[666] P-04179 at 0045.
[667] P-00949.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

were shipped.[668] The comments that justified shipping those four orders were: "very low, they need it," "run low @ 1st of month," "Getting Rite Aid pts," and "Ready to dispense 960 out."[669]

325. In September 2015, while Albertsons was filling suspicious orders for oxycodone for Store 213, an Albertsons pharmacist from the Richland area alerted his DPM that he had concerns about prescriber Dr. Arnold, including that Dr. Arnold had lost her ability to prescribe for the state, that almost every prescription from her was an early refill, and that she was prescribing high volumes of fentanyl.[670] Store 213 was the top dispensing Albertsons pharmacy for Dr. Arnold. In 2016 the Over Threshold Report showed that Albertsons filled 55 additional suspicious orders for oxycodone for Store 213.[671] In April 2016, an Albertsons Field Evaluator notified Albertsons management that Store 213 and all the other teams in the area were having issues with Dr. Arnold, and that no one felt comfortable filling her prescriptions. Albertsons filled tens of thousands of dosage units of oxycodone for prescriptions written by Dr. Arnold at Store 213 and other Albertsons pharmacies.[672]

326. Despite shipping more than 150 suspicious orders for oxycodone to Store 213 in just 2015 and 2016, Albertsons never initiated an investigation of Store 213 or conducted a review of Dr. Arnold.[673]

327. A review of the Over Threshold Report also reveals more than 100 suspicious orders of hydrocodone shipped to Store 241 in Clarkston, Washington in the period before the pharmacy was finally identified as an outlier for its hydrocodone dispensing, and nearly two dozen suspicious orders of methadone shipped to Store 471 in Marysville, Washington in the

---

[668] P-00949.
[669] P-00949.
[670] P-00537.
[671] P-00949.
[672] P-00780; P-03979 at 0009.
[673] 7/16/26 am TT (Aitkens WA 30(b)(6) depo vol. 2 (8/29/25)) at 822:4-828:7 (discussing P-00538; P-00417).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

time before it was found to be the top dispensing Albertsons pharmacy for Dr. Kammeyer, who was cut off by Rite-Aid and the State for her methadone prescribing.[674]

328. Based on the above, the Court finds that Albertsons disregarded the information available to it and failed to appropriately investigate patterns of suspicious behavior by its pharmacies.

E. Albertsons' Contribution to the Public Nuisance in Washington

1. Albertsons Dispensed and Distributed a Large Volume of Opioids into Washington

329. Albertsons' ineffective diversion controls, exacerbated by its policies encouraging increased opioid dispensing and distribution, inundated Washington with opioids. From 2006 to 2022, Albertsons dispensed 640,682,383 opioid pills in Washington, including 283,410,896 hydrocodone pills and 252,877,921 oxycodone pills.[675] This is over 9.6 billion (9,632,309,452) MME, including 3,909,861,574 MME of oxycodone and 2,048,946,233 MME of hydrocodone.[676]

330. Even though Albertsons distributed opioids only 2006 to 2008 and 2013 to 2016, it shipped over 30.2 million opioid pills to its Washington stores alone, which also received hundreds of millions of opioid pills from other distributors.[677] From 2006 to 2021, Albertsons pharmacies received 690,464,294 opioid pills, giving it a 14.8% dispensing market share in Washington.[678] This makes Albertsons the second largest pharmacy chain in Washington by volume, just behind Rite-Aid, which has a 15.5% market share.[679]

---

[674] P-00949; P-03981; P-00521; P-00522; P-00525.
[675] 7/20/26 am TT (McCann) at 1113:19-1117:5; P-04107.
[676] P-04108.
[677] P-04105.
[678] P-04105.
[679] P-01383 at 0002.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

331. Mr. Catizone identified numerous red flags that constitute indicia of potential diversion that may be evidenced by an opioid prescription.[680] Dr. McCann applied algorithms that reflect these red flags to analyze Albertsons' dispensing data, identifying a pool of 6.5 million opioid prescriptions (or 61.6% of all opioid prescriptions) that triggered one or more of these commonly accepted red flags.[681]

332. Dr. McCann applied Mr. Catizone's fourteen red-flag definitions to Albertsons' Washington dispensing data for 2006 through 2022 by "applying a set of formulas to that data."[682] The data contained 16,806,470 prescriptions, of which 10,615,250 were for opioids; the balance were benzodiazepines and muscle relaxers, which several of the flags combine with opioids.[683] Of the opioid prescriptions, 6,541,993, or 61.63%, bore at least one red flag.[684] Each prescription is counted once in that figure.[685] The number of opioid prescriptions bearing each flag was as follows: flag 1 (patient traveled more than 25 miles to the pharmacy), 441,405; flag 2 (patient traveled more than 25 miles to the prescriber), 3,289,803; flag 3 (overlapping opioid prescriptions from two or more prescribers), 1,048,077; flag 4 (overlapping opioid prescriptions at two or more pharmacies), 246,438; flag 5 (an opioid, a benzodiazepine and a muscle relaxer with overlapping days' supply), 305,491; flag 6 (the same three drugs on the same day from the same prescriber), 31,967; flag 7 (an opioid and a benzodiazepine within 30 days), 1,970,103; flag 8 (an opioid and a benzodiazepine on the same day from the same prescriber), 446,792; flag 9 (two short-acting opioids on the same day), 242,924; flag 10 (more than 200 MME per day

---

[680] 8/5/26 am TT (Catizone) at 3445:8-3465:17; 8/5/26 pm TT (Catizone) at 3518:9-3519:13; P-04219 at 0006-0014.

[681] 7/20/26 am TT (McCann) at 1135:5-1141:13 (discussing P-01405); 8/5/26 pm TT (Catizone) at 3566:05-13 ("61 percent of opioids filled by Albertsons between 2006 and 2022 hit on a red flag.").

[682] 7/20/26 am TT (McCann) at 1136:1-5, 1139:10-18, 1141:19-25.

[683] 7/20/26 am TT (McCann) at 1139:19-1141:1; P-01405 at 0002.

[684] 7/20/26 am TT (McCann) at 1141:8-13 ("61.6 percent or 6.5 million of the 10.6 million"); P-01405 at 0002.

[685] 7/20/26 am TT (McCann) at 1144:6-7, 1144:16-19.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

through December 31, 2018, or more than 90 MME per day thereafter), 773,539; flag 11 (the same opioid, strength and dosage form dispensed to four or more patients of one prescriber on one day), 67,087; flag 12 (refill more than five days early), 14,959; flag 13 (more than 210 days' supply in six months), 2,611,451; flag 14 (paid in cash), 402,452.[686] Added together, the per-flag counts come to 11,892,488 red flags.[687] That is more than the 6,541,993 flagged prescriptions because many prescriptions bore more than one flag. The number of opioid prescriptions flagged by three or more of the fourteen criteria was 1,388,224; by four or more, 519,732; by five or more, 165,543.[688]

333. Dr. McCann testified that the data are "reliable for the purposes of establishing a lower bound" on dispensing and "also reliable for identifying what we call flagged prescriptions, but it's understating."[689] Dr. McCann testified of his shipped-versus-dispensed comparison, that it "accurately reflects the data we have and it establishes a lower bound on the dispensing activity and the flagging activity, but it -- it's not capturing the full extent of it."[690] The Court finds that the red-flag counts in P-01405 are conservative.[691]

334. Some of Mr. Catizone's red flags (flags 3, 4, 9, 11, and 13) require sequencing, meaning more than one prescription is required before the flag arises. For example, flag 3 relates to the indicia of diversion commonly referred to as doctor shopping and is triggered when a second opioid prescription is dispensed within 30 days of a prior opioid prescription, and the second prescription is written by a prescriber different from the first.[692] In that scenario, Mr. Catizone agreed that "the first filled prescription, standing alone, does not trigger a red flag, if

---

[686] P-01405 at 0002; P-04127 (red-flag definitions; illustrative).
[687] P-01405 at 0001 (sum of the fourteen per-flag counts).
[688] P-01405 at 0005; 7/20/26 am TT (McCann) at 1143:2-17.
[689] 7/20/26 am TT (McCann) at 1103:1-3, 1103:15-16.
[690] 7/20/26 am TT (McCann) at 1104:4-9.
[691] 7/20/26 am TT (McCann) at 1103:15-1104:9, 1139:10-18.
[692] 8/5/26 am TT (Catizone) at 3449:17-3453:11 (discussing P-04127 (illustrative)).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

it's the only prescription," that the flag "only becomes a red flag . . . when the patient fills that second prescription," and that a pharmacist who filled the first prescription "was correct to not fought [sic], resolve, or document any red flag on that prescription at the time she filled it."[693] However, he directed Dr. McCann to count both prescriptions, to determine whether the earlier (but subsequently triggered) red flag prescription(s) were properly acknowledged, addressed, and cleared by Albertsons at the ultimate triggering event, as well as retroactively flagged for future pharmacists, because retrospective review and documentation of the earlier prescriptions is part of the pharmacist's duty.[694] Importantly, it is clear that even if one were to liberally reduce the number of prescriptions reported that were flagged by sequence flags, Albertsons filled millions of red-flagged prescriptions in Washington without documenting how the red flags were resolved.[695]

335. Albertsons argued that some of Catizone's flags constituted "double-counting."[696] For example, flag 6 is a trinity cocktail prescription where all drugs are dispensed on the same day pursuant to a prescription written by a single prescriber.[697] The same prescriptions that trip flag 6 also trip flag 5, which flags trinity cocktail prescriptions written for overlapping days of supply, but not all dispensed on the same day.[698] However, Albertsons' argument misunderstands that Mr. Catizone's flag 6 is merely identifying what he considers to be a more flagrant flag. Mr. Catizone testified that "if a patient came in with all three on the same day, I should immediately notice that. There is no waiting for that second prescription or third prescription to trigger it. So, I should know instantly that that was a prescription that should not

---

[693] 8/5/26 pm TT (Catizone) at 3585:4-16.
[694] 8/5/26 am TT (Catizone) at 3430:19-3431:2, 3451:17-3453:11; 8/5/26 pm TT (Catizone) at 3585:22-3586:22, 3603:5-6.
[695] P-01405.
[696] 8/6/26 am TT (Catizone) at 3663:9-13.
[697] 8/5/26 am TT (Catizone) at 3456:11-17.
[698] 8/5/26 am TT (Catizone) at 3456:18-25.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

be dispensed until it's resolved."[699] The 6,541,993 figure counts each flagged prescription once, regardless of how many flags it bore, *see supra* FOF ¶ 332, so the finding that 61.6% of Albertsons' opioid prescriptions bore a red flag involves no double-counting. Nor is flag 6 a duplicate of flag 5. Mr. Catizone was identifying a subset of red flags that should have been more obvious to the filling pharmacist. The Court therefore rejects Albertsons' double-counting argument.

336. Mr. Catizone opined, and the Court finds, that Albertsons filled a significant number of opioid prescriptions that it should not have filled. Dr. McCann testified that the sample size of 1,200 prescriptions, which was reviewed for Mr. Catizone's analysis, is "quite significant," and that the two-step selection of stores and prescriptions is "more than adequate in my view."[700] The sample was drawn in two random steps: a random subset of Albertsons' Washington stores was selected, and from those stores' red-flagged opioid prescriptions, a random sample of 1,200 was drawn.[701] Albertsons then produced all electronic notes and all hard copy prescriptions it could locate for the sample. Albertsons also produced the electronic notes for approximately 4,326 associated benzodiazepine and muscle relaxer prescriptions for the sampled patients.[702] Mr. Catizone reviewed the random sample of 1,200 of Albertsons' hard copy prescriptions and electronic notes—selected from the 6.5 million red-flagged opioid prescriptions dispensed in Washington through a process agreed upon by both parties.[703]

337. Mr. Catizone testified that he reviewed every electronic note field and every hard copy prescription for the entire random sample set, as well as the electronic notes and hard copy

---

[699] 8/5/26 am TT (Catizone) at 3457:19-25.
[700] 7/20/26 am TT (McCann) at 1155:7-9, 1156:10-17, 1170:3-5, 1170:14-1171:11.
[701] 7/20/26 am TT (McCann) at 1156:23-1157:13, 1170:20-1171:11.
[702] 8/5/26 pm TT (Catizone) at 3516:21-3517:21.
[703] 8/5/26 am TT (Catizone) at 3501:7-3505:8; 8/5/26 pm TT (Catizone) at 3516:18-3518:7; 7/20/26 am TT (McCann) at 1156:23-1157:13; 8/26/26 am TT at 6464:24-6465:16 (statement of Albertsons' counsel: "There was an agreement on the sample"; the 1,200 were pulled "[f]rom a subset" already identified as having red flags).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

prescriptions for other prescriptions from the patients' history.[704] Mr. Catizone found that the number of prescriptions from the sample set with sufficient due diligence was "significantly low," with approximately 96% of those prescriptions lacking sufficient documentation relevant to the red flag or relevant to the patient care.[705] Of the specific "note" field within the electronic notes, "1104 out of the 1200 supposed sample set were blank."[706] A review of all electronic notes fields, to include Rx notes, DUR notes, and Patient Profile notes, shows that 491, or 40.9%, were blank or coded "NA."[707] After reviewing all of the notes fields and all of the hard copy prescriptions, Mr. Catizone opined that, of the 1,200 sample red-flagged prescriptions, "96 percent of the prescriptions did not contain information or documentation to resolve the red flags."[708] Dr. McCann testified that the conclusions drawn on the statistically significant sample can be extrapolated to the entire population of Albertsons' red-flagged prescriptions, and that a rate observed 96% of time in the sample of 1,200 would be true between 94.73 and 96.98% of time in the entire population.[709] In other words, it is not only statistically shown, but overwhelming from the evidence, that Albertsons' pharmacists did not conduct and document due diligence on red-flagged opioid prescriptions in Washington. Moreover, Albertsons did not introduce any competent evidence at trial of red-flagged prescriptions for which they *did* conduct and document due diligence prior to filling.

338. Mr. Catizone opined, Albertsons' own policies required, and the Court also finds, that because the prescriptions in the sample set had red flags, there should have been documentation resolving those red flags if the prescriptions were dispensed.[710] And in every

---

[704] 8/5/26 am TT (Catizone) at 3503:3-3505:8.
[705] 8/5/26 am TT (Catizone) at 3505:15-25.
[706] 8/5/26 am TT (Catizone) at 3505:21-25.
[707] P-01644.
[708] 8/5/26 am TT (Catizone) at 3506:19-3507:9.
[709] 7/20/26 am TT (McCann) at 1169:10-1171:11; P-01643.
[710] 8/5/26 am TT (Catizone) at 3506:1-15.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

single example, the pharmacist dispensed the prescription, regardless of the red flag and the absence of sufficient documentation showing the resolution of that red flag.[711] Mr. Catizone further opined that no prescription should be dispensed unless the red flag is resolved and documented, and those prescriptions lacking adequate due diligence from the sample set should also not have been dispensed.[712] Therefore, the Court finds that opioid prescriptions with known indicia of diversion were dispensed by Albertsons without due diligence, and for the reasons stated below, likely led to the diversion of opioids in Washington.

339. To be clear, the Court is ***not*** finding that every opioid prescription that was dispensed without proper resolution of red flags resulted in diversion or resulted in an opioid being dispensed to a patient without a legitimate purpose for having it. The Court recognizes that many, and perhaps even most, of the 96.5% of prescriptions that were dispensed without proper resolution of red flags went to patients with legitimate need for opioids whose opioids had been properly prescribed. But, as some Albertsons witnesses themselves acknowledged, without documentation, there is no way of knowing that red flags were resolved and no way to ascertain how many or what proportion of those opioids were diverted. The reason there are statutes regulating opioid distribution and dispensing and requiring systems be in place is so that we can know with a reasonable likelihood that opioids are not being diverted. So every failure to comply with the requirement to resolve red flags and document their resolution is a violation that creates an unnecessary risk of diversion. And, with the failure to document percentage so high it can reasonably be inferred (and we know from information discussed above regarding specific instances of pill mill doctors, diversion) that opioids dispensed by Albertsons substantially contributed to the opioid epidemic.

[711] 8/5/26 am TT (Catizone) at 3506:15-18.
[712] 8/5/26 am TT (Catizone) at 3507:3-18.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

340. Though Dr. Wolf opined that she believed Albertsons' due diligence and documentation was sufficient, the Court does not find her testimony persuasive. Unlike Mr. Catizone, who reviewed all of the prescriptions and notes, Dr. Wolf performed a detailed review of only 100 of the 1,200 sample prescriptions, which she subjectively selected as "potential outliers" without defining that term and without sufficient explanation.[713] Her attempt to discredit Mr. Catizone by presenting the Court with four example prescriptions that she believed had sufficient due diligence was of no moment. Dr. Wolf did not know, and could not state, whether her chosen four examples were pulled from the 4% of prescriptions Mr. Catizone opined *did* have sufficient due diligence, or the 96% he opined did *not*.[714].

341. As stated above, Mr. Catizone opined, and the Court finds, that Albertsons' failure to document the due diligence on opioid prescriptions with red flags likely led to the diversion of opioids in Washington.[715]

342. Albertsons' dispensing data reveals that, for the opioid prescriptions dispensed in Washington from 2006 through 2022 that bore one or more red flags, Albertsons was entitled to receive a total of $308,360,088 from customers and third-parties payors.[716] The corresponding total for flagged benzodiazepine prescriptions is $13,688,922, and for flagged muscle-relaxer prescriptions $3,134,756,[717] for approximately $325 million across all three.[718] Applying the 96% rate found above, Albertsons received at least $296,025,684.48 on red-flagged opioid prescriptions it dispensed without sufficiently documented due diligence.[719]

---

[713] 8/25/26 pm TT (Wolf) at 6252:21-23, 6253:19-21, 6275:18-20, 6279:21-6281:1.
[714] 8/26/26 am TT (Wolf) 6467:18-21, 6468:23-6469:8; after a 15-minute court recess, Dr. Wolf was able to identify one of the four prescriptions. 8/26/26 pm TT (Wolf) 6476:18-6477:7.
[715] 8/5/26 am TT (Catizone) at 3511:8-13.
[716] 7/21/26 am TT (McCann) at 1293:22-24; P-01398.
[717] 7/21/26 am TT (McCann) at 1294:1-5.
[718] 7/21/26 am TT (McCann) at 1294:12-18.
[719] *See* 7/21/26 am TT at 1294:20-24 (P-01398 admitted without objection).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

2. Albertsons' Oversupply of Opioids Helped Fuel the Opioid Epidemic in Washington

343. All parties agree that the nation is suffering from an opioid epidemic,[720] and Washington has been particularly ravaged by it.[721]

344. The opioid supply increased dramatically in the United States beginning in the mid-1990s, and a direct consequence of the increased supply of opioids was an increase in opioid-related harms.[722]

345. As Dr. Keyes explained, there is compelling evidence of harm from the oversupply of prescription opioids, both for medical users, and for non-medical users due to diversion.[723] "[T]he supply of prescription opioids to communities is a consistent risk factor for harms in those communities."[724]

346. Dr. Keyes and Dr. Duhigg testified, and the Court finds, that the oversupply of prescription opioid pills into Washington communities across the state significantly contributed to Washington's opioid epidemic and the resulting harms.[725] Specifically, in Washington, Dr. Keyes concluded, and the Court agrees, that "the supply of prescription opioids was the dominant driver and the instigator of the epidemic of opioid use disorder and opioid-related overdose in Washington."[726] The Court finds Dr. Keyes and Dr. Duhigg to be highly qualified and credible.

---

[720] *See*, *e.g.*, 7/13/26 TT (Covaci WA FACT depo (9/9/25)) at 179:8-14; 8/13/26 am TT (Provenzano WA 30(b)(6) depo (9/9/25)) at 4745:5-4746:21.

[721] 8/13/26 am TT (Provenzano WA 30(b)(6) depo (9/9/25)) at 4746:22-4747:13; 8/12/26 am TT (Keyes) at 4511:4-4515:4; 8/12/26 pm TT (Keyes) at 4522:2-11 (discussing P-04247 at 028); 8/13/26 am TT (Keyes) at 4490:13-4492:9 (discussing P-04166); 8/12/26 am TT (Keyes) at 4482:3-4484:4 (discussing P-04160).

[722] 8/12/26 pm TT (Keyes) at 4530:16-4533:9

[723] 8/12/26 am TT (Keyes) at 4483:5-21; 4511:4-4515:4; 8/12/26 pm TT (Keyes) at 4522:2-11 (discussing P-04247 at 028).

[724] 8/12/26 am TT (Keyes) at 4475:19-25.

[725] 8/12/26 am TT (Keyes) at 4477:15-4478:9 8/12/26 pm TT (Keyes) at 4528:19-4529:9; *see also* 7/16/26 am TT (Duhigg) at 908:12-19.

[726] 8/12/26 am TT (Keyes) at 4478:2-9.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

347. As Dr. Keyes explained, the increase in prescription opioid dispensing that began nationwide in the 1990s was mirrored in Washington.[727] As a result, there is a significant and ongoing public health burden of OUD and overdose in Washington. There have been and continue to be tremendously high rates of opioid overdose in Washington.[728] According to Dr. Keyes, the oversupply of opioids in Washington resulted in increased EMS services, hospitalizations, OUD, deaths, non-fatal overdoses, and neonatal abstinence syndrome (NAS).[729]

348. Albertsons' former DPM, Mr. Arndorfer, agreed that "the more opioids that are available within a community, the more likely it is that opioids will be diverted and end up in the wrong hands," and "the more likely they are to be abused and misused."[730]

349. One pathway through which opioids are diverted is "medicine cabinet diversion," which occurs when people obtain nonmedical prescription opioids from family and friends who received valid prescriptions, often for excess amounts.[731] Mr. Arndorfer acknowledged the dangers of medicine cabinet diversion, testifying "it was not a secret" that pills legitimately prescribed for individuals were making their way into the hands of relatives and other people who "shouldn't have them."[732] Ultimately, Dr. Keyes testified that the epidemiological literature "doesn't really make a distinction between the legitimacy of a prescription," and that the supply of opioids diverted for nonmedical use "most often comes from a variety of sources of prescriptions, most often from family or friends."[733]

---

[727] 8/12/26 am TT (Keyes) at 4478:2-4479:11 (discussing P-04157).
[728] 8/12/26 am TT (Keyes) at 4511:4-4515:4; 8/12/26 pm TT (Keyes) at 4522:2-11 (discussing P-04247 at 028); P-04161.
[729] 8/12/26 am TT (Keyes) at 4490:8-4492:9; 4499:9-4500:6 (addressing P-04166; P-04247.028); 8/12/26 pm TT (Keyes) at 4523:17-4525:24 (discussing P-04164; P-04247 at 030).
[730] 8/10/26 pm TT (Arndorfer WA FACT depo (7/10/25)) at 4111:6-21.
[731] 8/12/26 pm TT (Keyes) at 4559:16-4560:3.
[732] 8/10/26 pm TT (Arndorfer WA FACT depo (7/10/25)) at 4110:5-19.
[733] 8/12/26 pm TT (Keyes) at 4560:4-16.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

350. Critically, the oversupply of prescription opioids can also lead to harms caused by more potent, illicit drugs. Ms. Covaci conceded that "people who were becoming addicted to prescription drugs were, as those prescription drugs got too expensive for them, were migrating and using heroin."[734]

351. Dr. Keyes explained that there is a causal relationship between prescription opioid use and subsequent heroin and fentanyl use.[735] Dr. Duhigg agreed that the "vast majority of patients describe initiating their opioid use with pharmaceutical opioid analgesics and then transitioning on to heroin or illicitly manufactured fentanyl when they were no longer able to procure pharmaceutical opiate pain pills."[736] In fact, 70-80% of people who use heroin used prescription opioids before heroin use.[737] Dr. Keyes testified to a "consensus in my field" that "the tremendous expansion of the supply of powerful prescription opioids led to scaled increases in prescription opioid dependence and transition to many of the illicit opioids, including fentanyl and its analogues, that have driven exponential increases in overdose."[738] Albertsons and its expert witness, Dr. Gilligan, agreed that "~80% of new heroin users are coming to heroin after having abusing prescription opioids."[739] Further, an Albertsons presentation explained that "4 out of 5 new heroin users started out misusing prescription opioids" and chose heroin because prescription opioids are "far more expensive and harder to obtain."[740] This 80% figure is also reflected in the medical literature.[741] The Court therefore finds that heroin use in Washington increased significantly due to the overabundance of prescription opioids.

---

[734] 7/13/26 TT (Covaci WA FACT depo (9/9/25)) at 198:25-199:8.
[735] 8/12/26 am TT (Keyes) at 4500:7-4501:21; *see also* 7/16/26 am TT (Duhigg) at 920:4-921:5.
[736] 7/16/26 am TT (Duhigg) at 920:15-23; *see also id*. at 908:20-909:19; 915:15-917:3.
[737] 8/12/26 am TT (Keyes) at 4500:7-4501:21; 7/27/26 pm TT (Finegood) at 2147:4-9; 7/16/26 am TT (Duhigg) at 920:4-921:5; 7/23/26 am TT (Berry) at 1745:4-8.
[738] 8/12/26 am TT (Keyes) at 4506:17-4507:7.
[739] P-00468 at 0008-9; 8/20/26 pm TT (Gilligan) at 5882:20-22.
[740] P-00279 (Albertsons' 2017 Opioid Awareness Presentation) at 0059-60.
[741] P-04357 at 0001 ("[A]mong heroin users between 2002 and 2011, almost 80 percent reported previous prescription opioid usage.").

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

352. In addition, as Dr. Duhigg testified and the Court finds, the epidemic of illicit fentanyl "pseudo-pharmaceutical" pills in Washington is "[w]ithout a doubt … connected to the pharmaceutical opioid epidemic": counterfeit fentanyl tablets "were literally modeled on oxycodone 30-milligram tablets," and "there was a market created by the pharmaceutical opioid epidemic, and not just a market but an entire culture around use and misuse of opioids," which "created an opportunity … for the drug dealers to introduce their product." As Dr. Duhigg explained, the cartels "made them look like opiates because of the culture and the phenomenon that was created by the pharmaceutical opioid epidemic."[742] The existence of these pressed pills, however, does not undermine the data and conclusions of the State's experts, because the epidemiological literature accounts for this exact circumstance in many of its surveys.[743] Additionally, the consistency of the 70%-80% figure across many studies, and the consensus in the field of epidemiology in the last two decades, supports the Court's findings.[744]

353. Other evidence presented at trial also supports the finding that people in Washington transitioned from being addicted to prescription opioids to abusing illicit opioids. Witnesses such as Dr. Berry, Mr. Finegood, Dr. Edminster, Dr. Fotinos, and Ms. Borelli, all testified that it was common to find patients in Washington who used prescription opioids before transitioning to heroin or illicit fentanyl.[745] This was especially true for people incarcerated in Washington. Dr. Catherine Smith, the Director of Addiction Medicine at the Department of Corrections, testified that approximately 30% of the prison population in Washington has OUD,

---

[742] 7/16/26 am TT (Duhigg) at 923:18-924:9; *see also id.* at 921:6-922:19; 7/16/26 pm TT (Duhigg) at 1005:22-1006:22.

[743] 8/12/26 am TT (Keyes) at 4508:5-4509:18.

[744] 8/12/26 am TT (Keyes) at 4501:8-4507:7.

[745] 7/27/26 pm TT (Finegood) at 2124:4-21; 7/23/26 am TT (Berry) at 1745:4-8 ("I would say the vast majority. Probably 80 or 90 percent of my patients started on pills"); 8/10/26 am TT (Fotinos) at 3947:22-3948:6 ("the vast majority of people who were admitted with opiate use disorder, their use had started after an accident, after a surgery, they had started using prescription opioids"); 8/6/26 am TT (Borrelli) at 3690:10-14.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

with most cases being on the moderate or severe end of the spectrum.[746] According to Dr. Smith, most of these people first began suffering from addiction decades ago, starting with prescription opioid pills during the height of opioid prescribing in Washington, during the 2000s and 2010s.[747]

354. In addition, Dr. Fotinos testified that once prescriptions for opioids decreased, the number of deaths and hospitalizations from heroin and fentanyl increased.[748]

355. Albertsons' expert, Dr. Carise, testified at trial on direct examination that prescription opioids are not causally linked to subsequent heroin and illicit fentanyl use,[749] and that chain pharmacies, like Albertsons, did not contribute to the opioid crisis in any significant way.[750] However, the Court does not find Dr. Carise's testimony credible because it was repeatedly at odds with her prior, out-of-court statements made before she began working as a paid litigation expert. For instance, Dr. Carise repeatedly testified on direct examination that people did not transition from prescription opioid pills to heroin or other illicit opioids.[751] However, she publicly stated in prior informational videos and talks that "[a] great number of people we see in treatment today with heroin problems were introduced to heroin through prescription drugs."[752] While Dr. Carise claimed on redirect examination that her newfound opinions were based on "a lot of literature and science that's come out after that,"[753] she pointed to no such literature as the basis of her changed views. And her testimony was at odds with credible testimony from other experts.

---

[746] 8/6/26 pm TT (Smith) at 3778:9-3779:10.
[747] 8/6/26 pm TT (Smith) at 3779:11-3780:6, 3780:24-3781:13.
[748] 8/10/26 am TT (Fotinos) at 3948:7-25.
[749] 7/31/26 am TT (Carise) at 6933:1-6935:8.
[750] 7/31/26 am TT (Carise) at 6984:8-11.
[751] 7/31/26 pm TT (Carise) at 7046:18-22, 7080:17-22, 7050:5-14.
[752] 9/09/26 am TT (Impeachment Excerpts Read-In) at 8174:10-13, 8174:15-8175:6, 8175:10-14, 8175:16-23.
[753] 7/31/26 pm TT (Carise) at 7130:2-9.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

356. Further, Dr. Carise misrepresented the contents of her own study. Specifically, in response to the Court's questions, Dr. Carise testified that her 2007 study determined that, for the vast majority of people abusing OxyContin (78%), the drug "was not prescribed for them by a physician for -- for any reason,"[754] indicating that the drug was obtained through some illicit channel, and not from a pharmacy. However, on cross examination, Dr. Carise admitted that the study was designed to determine whether the patients *had been prescribed* OxyContin for a *legitimate* medical purpose,[755] leaving open the possibility that, for the 78% of study participants, the OxyContin was prescribed by pill mill doctors and obtained from pharmacies. Dr. Carise was also forced to admit, after initially denying it, that the study was funded by Purdue Pharma.[756]

357. Even if Dr. Carise's credibility were not at issue, the Court finds that the weight of the evidence goes against Dr. Carise's conclusions. The testimony of Drs. Keyes, Duhigg, and Miller, that the scientific literature consistently identifies the connection between prescription opioid use and subsequent heroin and illicit fentanyl use, was both credible and consistent with other evidence offered at trial, such as the trial testimony of fact witnesses living in Washington who provided further evidence that people in this State transitioned to heroin or illicit fentanyl abuse after beginning with prescription opioids.[757] While the Court recognizes that not all people who take prescription opioids become addicted to heroin, there was substantial evidence offered at trial that people who use heroin or illicit fentanyl frequently became addicted as a result of prescription opioid use.[758]

---

[754] 8/31/26 am TT (Carise) at 6985:18-6986:2.
[755] 8/31/26 pm TT (Carise) at 7063:1-14.
[756] 8/31/26 pm TT (Carise) at 7066:2-4, 7067:5-7069:3.
[757] 7/23/26 am TT (Berry) at 1745:4-8; 8/06/26 pm TT (Smith) at 3779:11-3780:6; 7/27/26 pm TT (Finegood) at 2124:4-21; 7/15/26 am TT (Edminster) at 660:15-21; 8/10/26 am TT (Fotinos) at 3947:22-3948:5; 8/06/26 am TT (Borrelli) at 3690:10-14.
[758] *See supra* Section II.E.2.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

358. Dr. Keyes opined that pharmacies have a particularly important role in preventing the oversupply of prescription opioids, stating, "pharmacy practices overall are significantly associated with the density of opioid volume prescribed, and so to the extent that pharmacists did not engage in due diligence, that certainly would be associated with increased opioid supply."[759] The Court agrees. Dr. Keyes also testified that, to the extent pharmacies in the opioid supply chain "could have turned off the faucet but kept it going, that would also contribute to the oversupply in the bathtub of Washington State."[760]

359. Dr. Duhigg explained that he views "the pharmacy and the pharmacist as [his] partner in healthcare delivery for the patient."[761] "I really do consider them the last line of defense from getting the medication from the pharmacy into the patient's hands in the community."[762]

360. Dr. Duhigg also testified that a single prescriber writing inappropriate opioid prescriptions "can have an enormously tragic impact" on a community because pill-mill prescribing concentrates enormous quantities of high-dose pills in small numbers of patients, and pills in those volumes "run the risk of being diverted."[763]

361. Albertsons' former DPM, Mr. Queen, conceded that a pharmacy's failure to ensure that prescriptions were issued for a legitimate medical purpose can lead to addiction and death.[764] Albertsons' DPO in Washington, Mr. Green, agreed that pharmacists serve as the "last line of defense for opioids that go out into the community," and pharmacists who fill

---

[759] 8/12/26 pm TT (Keyes) at 4653:16-4654:6.
[760] 8/12/26 pm TT (Keyes) at 4548:10-17.
[761] 7/16/26 am TT (Duhigg) at 927:8-928:4.
[762] 7/16/26 am TT (Duhigg) at 927:8-928:4; *see also* 7/16/26 pm TT (Duhigg) at 1026:15-1027:8.
[763] 7/16/26 pm TT (Duhigg) at 1021:15-1022:13.
[764] 7/21/26 pm TT (Queen WA FACT depo (9/10/25)) at 1497:6-1498:9.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

prescriptions written for illegitimate medical purposes "can also do a lot of harm to a community."[765]

362. Dr. Berry also noted the importance of pharmacies in the protection of patients, noting that pharmacists are "one of the important safeguards in the steps between . . . a prescription and a patient taking that medication . . . [And] they can help prevent dangerous prescribing."[766]

363. It is for this reason, as Dr. Keyes explained, that pharmacies are the last line of defense against prescription pills prescribed by a doctor without a legitimate medical purpose from making their way into Washington communities.[767] Albertsons does not dispute this and, in fact, its internal documents, and its own witnesses, expressly recognized pharmacies as the "last line of defense" against diversion.[768] As Albertsons' Director of Pharmacy Compliance conceded, "we are literally the professional who put the drugs into the hands of the patient."[769] A learned treatise relied upon by Albertsons' experts Dr. Carise and Dr. Selck noted that "As the last line of defense ensuring that prescriptions are filled and drugs are dispensed only for legitimate medical use, pharmacies play an important role in several diversion channels."[770] The treatise further reported that pharmacists have better knowledge than prescribers of whether patients abuse drugs, and that pharmacists perceived a larger percentage (41%) of patients abusing opioid pain relievers than their corresponding prescribers (17%).[771]

---

[765] 7/29/26 am TT (Green) at 2618:13-2620:8.
[766] 7/23/26 am TT (Berry) at 1751:21-1752:8.
[767] 8/13/26 am TT (Keyes) at 4641:7-4642:16.
[768] *See*, *e.g.*, 7/13/26 TT (Covaci WA FACT depo (9/9/25)) at 200:22-201:3 (discussing P-00219 0016).
[769] 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 451:3-7.
[770] DX 4020 at 0002
[771] *Id.* The main thesis of the treatise is that independent pharmacies are more problematic in their opioid dispensing practice than large chain pharmacies. That observation does not absolve chain pharmacies from their role and responsibility in the opioid epidemic.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

364. As set forth above, the State has presented substantial evidence that Albertsons failed as that last line of defense, failing to maintain effective controls against diversion with flawed and sometimes nonexistent distribution and dispensing policies and practices. As explained above, the State has also presented considerable evidence that Albertsons' flawed policies and practices contributed to the oversupply of prescription opioids in Washington. Indeed, Ms. Covaci conceded that during the time she was Director of Pharmacy Compliance (2015-2020), she knew that the diversion of prescription opioids dispensed by Albertsons was "occurring."[772] She also conceded that "a bad pharmacy or pharmacist who is not carrying out their corresponding responsibility appropriately, [and] not identifying and resolving and documenting red flags, could do a lot of harm to that community."[773]

365. The Court finds that Albertsons' failure to fulfill its duties as a distributor and dispenser of controlled substances, as outlined above, substantially contributed to the flood of opioids dispensed in Washington from 2006 to 2022.

366. Based on the above, the Court finds that Albertsons' failure to prevent the oversupply and diversion of prescription opioids into Washington communities through its deficient dispensing and distribution practices was a substantial factor in causing the State's injury.

367. The Court further finds that diversion of prescription opioids, addiction, overdose, an illicit market in prescription and counterfeit opioids, and the transition of persons dependent on prescription opioids to heroin and illicit fentanyl, were foreseeable consequences of dispensing red-flagged opioid prescriptions without resolving the red flags, and of shipping suspicious orders without investigation, and that Albertsons foresaw them: its own internal documents recognized pharmacies as the "last line of defense" against diversion; its Director of

[772] 7/13/26 TT (Covaci WA FACT depo (9/9/25)) at 183:2-13.
[773] 7/13/26 TT (Covaci WA FACT depo (9/9/25)) at 189:8-24.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

Pharmacy Compliance conceded that diversion of the opioids it dispensed was occurring and that patients addicted to prescription opioids were migrating to heroin; its district pharmacy manager acknowledged that dispensed pills were reaching relatives and others who should not have had them; and its own compliance presentation and 2017 opioid awareness presentation stated that 80 percent of new heroin users began with prescription opioids and that the DEA regarded pharmacies as the faucet feeding the epidemic.[774]

3. Albertsons' Alternative Causation Theories

368. Albertsons argues there is insufficient evidence to support the finding that it substantially contributed to the public nuisance in Washington. But rather than calling an expert epidemiologist at trial to counter the opinions of Dr. Keyes, or simply addressing Dr. Keyes' opinions directly, Albertsons argues that Washington's opioid crisis was driven by so called "liberal prescribing standards," and similarly by an "evolving standard of care" for opioid prescribing. Further, Albertsons argues that an analysis of OxyContin's 2010 reformulation, conducted by its expert, Dr. Selck, a Ph.D. economist, demonstrates Albertsons was only filling opioid prescriptions for patients with legitimate medical needs, and thus the hundreds of millions of opioid pills dispensed by Albertsons played no role in fueling Washington's opioid epidemic. Finally, Albertsons argues that its customers were older in age than those of other pharmacies, and that Albertsons' customers therefore represent a subset of the population not heavily impacted by the opioid crisis. For the reasons explained herein, the Court rejects Albertsons' arguments.

---

[774] *See supra* Section II.E.2; 7/13/26 TT (Covaci WA FACT depo (9/9/25)) at 183:2-13, 198:25-199:8, 200:22-201:3 (discussing P-00219 0016); 8/10/26 pm TT (Arndorfer WA FACT depo (7/10/25)) at 4110:5-19, 4111:6-21; 7/29/26 am TT (Green) at 2618:13-2620:8; P-00279 (Albertsons' 2017 Opioid Awareness Presentation) at 0059-60; 8/13/26 am TT (Amend WA FACT depo (7/1/26)) at 4726:18-4727:25.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

a. "Liberal" Prescribing and the "Evolving" Standard of Care

369. Albertsons argues that the standard of care for opioid prescribing "evolved" over time and that, during this evolution, Washington fostered a "liberal prescribing standard" for opioids. It is this "liberal," "evolving" standard, Albertsons argues, that fueled Washington's opioid crisis, and not Albertsons' myriad failures to meaningfully prevent the diversion of controlled substances, described above in Section II.D.

370. On this topic, Albertsons relied heavily on the opinions of its pain care expert, Dr. Gilligan. Specifically, Dr. Gilligan testified that while opioid prescribing standards were very conservative in the 1980s and early 1990s, this was followed by a period of "liberal" opioid prescribing standards that lasted until at least 2007, when the pendulum began swinging back towards something "more restrictive."[775] To support his opinions regarding this more liberal prescribing period, Dr. Gilligan pointed to various state statutes, statements from Washington's Intractable Pain Act of 1993, state Medical Board policies, and changing CDC guidelines, which he asserts demonstrate the liberalization of the prescribing standards for the treatment of pain.

371. Similarly, Dr. Wolf testified that, when the concern was the undertreatment of pain, "in line with that, you know, undertreatment of pain concept, there was an expectation to fill."[776]

372. But as Kyle Karinen, Executive Director of the Washington Medical Commission testified, throughout all these changes to the various statutes, guidelines, and policies, the injudicious prescribing of opioids has *never* been the standard of care in the State of Washington.[777] Dr. Gilligan similarly conceded that nothing about the "evolution" of the

[775] 8/20/26 pm TT (Gilligan) at 5906:24-5907:18.
[776] 8/24/26 am TT (Wolf) at 5975:24-25.
[777] 8/3/26 am TT (Karinen) at 3009:5-8.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

standard of care empowered physicians to write opioid prescriptions without a legitimate medical purpose.[778]

373. Further, Dr. Gilligan's opinions solely concern *prescribing* standards. Dr. Gilligan is not an expert on the practice of pharmacy, controlled substance dispensing, or a pharmacy's corresponding responsibility.[779] Dr. Gilligan provided no opinions relating to the illicit, injudicious prescribing of opioids, despite his acknowledgement of pill mill doctors and other forms of injudicious prescribing that occurred in the State of Washington during the relevant time period.[780] His opinions therefore fail to address *any* of the injudicious prescribing that took place in Washington, or whether Albertsons failed to meaningfully address it. And, contrary to the positions taken by Albertsons, Dr. Gilligan agreed that a pharmacy is not a "mirror" of the prescriber in every case.[781]

374. The fact remains that at all times relevant to this case, Albertsons had a corresponding responsibility that was separate and distinct from the responsibility of the prescriber, and Albertsons had an obligation to act as the last line of defense, or gatekeeper, for all of the controlled substance prescriptions it evaluated,[782] regardless of the contemporaneous prescribing standards. And Mr. Catizone specifically incorporated the changing standards over time into his red flag analysis by modifying his MME-related flags based on dose and timeframe. For example, red flag 10 flagged opioid prescriptions that were for more than a certain level of

---

[778] 8/20/26 pm TT (Gilligan) at 5894:18-5895:4.
[779] 8/20/26 pm TT (Gilligan) at 5835:19-5836:3; 5837:3-19.
[780] 8/20/26 pm TT (Gilligan) at 5874:4-5876:19, 5878:13-22.
[781] 8/20/26 pm TT (Gilligan) at 5893:14-17 ("Q: Not all prescriptions that get to a pharmacy should be a mirror of a prescriber, correct? A. Correct.").
[782] 8/11/26 am TT (Arndorfer WA FACT depo (7/10/25)) at 4222:2-17; 8/27/26 am TT (Price) at 6671:2-14; 7/29/26 am TT (Green) at 2618:13-16; 8/10/26 pm TT (Arndorfer WA FACT depo (7/10/25)) at 4114:20-4115:1.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

MME per day, and the level of MME per day that triggered the flag changed from 200MME to 90MME in 2018, coinciding with the updated guidance from the CDC.[783]

375. Further, to the extent Albertsons argues that the State, through its "liberal" prescribing policies, bears responsibility for Washington's drug crisis, Albertsons ignores the fact that Washington was at the forefront of raising awareness of the impact of the opioid epidemic and putting all Washingtonians on notice about steps that should be taken to minimize the resulting harms. *See supra* Section II.D.1.a. As Albertsons' own expert witness testified, Washington was doing "cutting-edge work" in responding to the opioid crisis.[784]

376. Ultimately, the Court finds that none of the various state and national prescribing guidelines identified by Albertsons relieved it of its corresponding responsibility. While changes in guidelines and prescribing practices undoubtedly were a factor contributing to the opioid epidemic, they were not the only factor and their existence does not mean that pharmacies, and Albertsons specifically, were not also a substantial factor. The trial record shows that, at all times, Albertsons pharmacies had a corresponding responsibility to fill only prescriptions for a legitimate medical purpose, which was separate and apart from any responsibility borne by the prescriber, and that Albertsons knew or should have known the significance of that responsibility by way of ample notice provided by the State of Washington, the federal government, the DEA, and the laws and regulations that govern the practice of pharmacy.

b. The OxyContin Reformulation

377. As alluded to above, at trial, Albertsons called Dr. Selck to opine on Albertsons' contribution to the nonmedical dispensing of opioids in Washington.[785] Dr. Selck's opinions were based on his purported re-creation of an analysis performed by the scientists Janssen and

[783] 8/5/26 am TT (Catizone) at 3460:25-3462:9.
[784] 9/1/26 am TT (Carise) at 7126:7-20.
[785] 9/2/26 am TT (Selck) at 7392:12-18.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

Zhang around the reformulation of OxyContin in August 2010.[786] Dr. Selck posits that because the August 2010 reformulation made OxyContin more difficult to abuse while remaining just as clinically effective, that any decrease in the level of OxyContin dispensing at a pharmacy post-August 2010 is proof of nonmedical dispensing that had been occurring at that pharmacy.[787] Dr. Selck examined the dispensing of branded OxyContin before and after the reformulation, and determined that—in contrast to independent pharmacies—Albertsons' dispensing of post-reformulation OxyContin remained relatively unchanged, and therefore Albertsons' pre-reformulation nonmedical dispensing of OxyContin must have been statistically non-existent.[788]

378. The Court finds that Dr. Selck's analysis was significantly flawed for several reasons. First, the timeframe of Dr. Selck's analysis (limited to the period around August 2010) is too narrow.[789] Dr. Selck's analysis tells us nothing about Albertsons' nonmedical dispensing from April 2011 through the end of the relevant time period, despite the mountain of evidence discussed herein, *see supra* Section II.D.1, demonstrating numerous failures to prevent diversion during that time period at every level, from the corporate compliance department down to the dispensing window.

379. Further, despite the fact that this case concerns only Albertsons' contribution to the public nuisance *within Washington*, Dr. Selck performed a *national* analysis,[790] which included states like Kentucky and West Virginia that do not have any Albertsons pharmacies but have been heavily impacted by the opioid epidemic.[791]

---

[786] 9/2/26 am TT (Selck) at 7406:22-25.
[787] 9/2/26 am TT (Selck) at 7407:25-7408:19.
[788] 9/2/26 pm TT (Selck) at 7580:12-15.
[789] 9/3/26 am TT (Selck) at 7665:17-7668:14.
[790] 9/3/26 am TT (Selck) at 7697:19-7699:15.
[791] 9/3/26 am TT (Selck) at 7699:16-7700:22.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

380. Additionally, a critical factor in Dr. Selck's conclusion is the ratio of Albertsons pharmacies to the other pharmacies included in the analysis.[792] But prior to issuing his opinions, Dr. Selck never looked to see how the ratio of Albertsons' *Washington* pharmacies versus all other Washington pharmacies compared to Albertsons' *national* pharmacies versus all national pharmacies.[793] Had he looked, he would have found that Albertsons' market share in Washington is more than five times its national market share.[794]

381. Dr. Selck also used a comparison window for his analysis that was inconsistent with the Janssen and Zhang study (as well as research by other scientists) that he attempted to replicate. Janssen and Zhang and other epidemiologists evaluated 12 months on either side of the reformulation to reach their opinions, whereas Dr. Selck only evaluated six months.[795] Had Dr. Selck examined the broader 12-month period, it would have revealed a greater decline in dispensing at Albertsons than he reported in his conclusions.[796]

382. Most importantly, Dr. Selck based his analysis and conclusions on two key underlying assumptions that were proven incorrect at trial. First, Dr. Selck's analysis was based on the assumption that the reformulation of OxyContin was uncorrelated with other concurrent factors that impacted prescription opioid dispensing at the same time.[797] This assumption was erroneous because, as confirmed by Dr. Selck, simultaneous to the reformulation of OxyContin, Albertsons ceased the dispensing of generic oxycodone extended-release that is the therapeutic equivalent of OxyContin,[798] which may have caused certain patients to migrate to the reformulated OxyContin. Second, Dr. Selck's conclusions were based on the assumption that

---

[792] 9/3/26 am TT (Selck) at 7703:20-7704:6.
[793] 9/3/26 am TT (Selck) at 7704:7-7705:16.
[794] 9/3/26 am TT (Selck) at 7644:23-7645:1.
[795] 9/3/26 am TT (Selck) at 7666:6-9, 7682:20-7683:8, 7690:15-7691:9.
[796] 9/3/26 am TT (Selck) at 7696:11-14.
[797] 9/3/26 am TT (Selck) at 7677:14-7678:7.
[798] 9/2/26 am TT (Selck) at 7444:23-7445:4, 7445:17-21; 9/3/26 pm TT (Selck) at 7766:20-23.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

the reformulation of OxyContin impacted only the nonmedical demand for that product and not the medical demand.[799] As Dr. Selck confirmed at trial, this assumption was also erroneous because the simultaneous removal of generic oxycodone from the market could cause legitimate migration from generic oxycodone to OxyContin, which would blunt the impact of any downturn in the dispensing of OxyContin.[800]

383. Mathematical 1006 summaries offered by Dr. McCann illustrate the flaws in Dr. Selck's analysis. Data summaries admitted at trial of dispensing at Albertsons' Washington pharmacies show a statistically significant 16.8% post-reformulation reduction in oxycodone extended-release dispensing when including both OxyContin and generic oxycodone extended-release, and a statistically significant reduction of 31.4% post-reformulation dispensing of OxyContin when evaluating only OxyContin patients who were receiving OxyContin prior to reformulation.[801] According to Dr. Selck, findings such as these would support the conclusion that a large portion of Albertsons patients were obtaining opioids from Albertsons for non-medical purposes.[802] Further, data summaries also clearly illustrate the migration of pre-reformulation generic oxycodone extended-release patients to OxyContin post-reformulation, when the generic version of the drug was no longer available at Albertsons.[803]

384. The Court concludes that Dr. Selck's opinions surrounding the reformulation of OxyContin are not persuasive, and do not support a conclusion that Albertsons did not substantially contribute to the public nuisance in Washington. If anything, applying Dr. Selck's methodology to Albertsons' Washington dispensing data as illustrated in the data summaries admitted by the State shows that Albertsons *did* engage in nonmedical dispensing of oxycodone in 2010. Additionally, nothing about Dr. Selck's opinions would permit the Court to draw any

---

[799] 9/3/26 am TT (Selck) at 7679:2-8.
[800] 9/3/26 pm TT (Selck) at 7771:8-7772:18.
[801] P-04020 at 0007, 0010.
[802] 9/2/26 am TT (Selck) at 7407:24-7408:19.
[803] P-04020 at 0012.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

conclusions about any period other than the six months on either side of the August 2010 reformulation, or about any opioids outside of branded OxyContin.

c. Albertsons' Older Customers

385. Albertsons also called Dr. Shahrokh Rouhani, a self-described Environmental Statistician with a background in engineering, as an expert witness.[804] Dr. Rouhani performed an analysis in which he purported to compare the age of Albertsons' patients to those in Washington, generally, that have experienced opioid-related harms.[805]

386. Dr. Rouhani's analysis was unhelpful to the Court for several reasons. First, Dr. Rouhani compared the statistical age distribution of Albertsons patients to the statistical age distribution of Washingtonians who suffered drug-related harms, without offering any opinions or evidence to support the efficacy of such an exercise.[806] Dr. Rouhani did not provide the number of Albertsons patients or Washingtonians suffering drug-related harms that were included in the analysis, and therefore the Court is unable to put into context the comparison of the population percentages that were examined. Second, in evaluating the drug-related harms, Dr. Rouhani reviewed harms from *all* drugs, as opposed to just opioids.[807] By using all drugs, Dr. Rouhani included in his analysis harms from alcohol poisoning, cocaine, and stimulants, in addition to prescription and illicit opioids.[808] Dr. Rouhani also testified as to the statistical age distribution of Albertsons patients versus the statistical age distribution of the Washington Medicaid population afflicted with OUD to support the inference that Albertsons' patient population trends older, and that those suffering from OUD in Washington trend younger.[809] But the population of Medicaid actually trends younger due to the older population being eligible for

---

[804] 8/27/26 pm TT (Rouhani) at 6808:18-23, 6854:2-14.
[805] 8/27/26 pm TT (Rouhani) at 6819:10-14.
[806] *See, e.g.*, DX2135.
[807] 8/27/26 pm TT (Rouhani) at 6865:19-6866:5.
[808] 8/27/26 pm TT (Rouhani) at 6867:5-25.
[809] 8/27/26 pm TT (Rouhani) at 6823:20-6825:5 (discussing DX2136).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

Medicare, and the evidence at trial demonstrated that the 55+ population within Washington has been significantly impacted by the opioid epidemic. For example, Washingtonians aged 55-64 are currently the second-highest age bracket in opioid overdose death rate and the third-highest age bracket in non-fatal opioid overdose emergency department visits.[810] This trend has been true over time, as the same age bracket experienced the second-highest death rate from prescription opioids in 2014.[811]

387. For the reasons described above, the Court did not find Dr. Rouhani's opinions helpful or persuasive.

F. Abatement

388. Regarding the State's opioid abatement plan, the Court heard primarily from the State's expert, Dr. Ted R. Miller, Ph.D. Dr. Miller is an expert in the fields of economics, epidemiology, and urban planning, as well as the costs associated with government abatement plans relating to public health and substance abuse.[812] He also has experience evaluating programs for special populations including children, prisoners, and those with HIV.[813] He has more than 45 years of experience supervising and conducting epidemiologic analyses,[814] decades of experience analyzing and providing technical assistance for abating misuse of opioids and other psychotropic prescriptions,[815] and 20 years of experience in housing and economic development, including, *inter alia*, multifamily housing development and rehabilitation costs.[816] Dr. Miller also has degrees in Engineering, City Planning, Operations Research, and Regional Science.[817]

---

[810] P-04215; P-04364 at 002.
[811] P-04391.
[812] 8/17/26 am TT (Miller) at 4956:23-4957:10.
[813] 8/17/26 am TT (Miller) at 4953:1-4954:25.
[814] 8/17/26 am TT (Miller) at 4951:1-15.
[815] 8/17/26 am TT (Miller) at 4948:19-4950:7.
[816] 8/17/26 am TT (Miller) at 4952:19-25.
[817] 8/17/26 am TT (Miller) at 4946:22-4947:6.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

389. More relevant to the present case, Dr. Miller has special expertise related to opioid abatement planning from his experience and research. He served as Principal Investigator of the U.S. Department of Health & Human Services Substance Abuse and Mental Health Services Administration's Preventing Prescription Abuse Workplace Technical Assistance Center, which involved assisting state and community grantees in assessing needs, evaluating alternatives, developing response plans, and assessing the costs of the appropriate and reasonable responses to prescription drug abatement and prevention.[818] Dr. Miller has authored or co-authored more than 425 journal articles, with more than 300,000 citations to his work in the academic literature.[819] Dr. Miller's education, training, and experience qualify him to offer opinions regarding abatement. He has also been accepted in other opioid cases as an expert in opioid abatement planning.[820]

390. The Court found Dr. Miller credible and highly persuasive in many respects. There are, however, some areas in which the Court believes that Dr. Miller may have overstated the need and cost.

391. Dr. Miller developed a Washington-specific, statewide program designed to remediate the opioid crisis by expanding and coordinating four categories of interventions: treatment, harm reduction, primary prevention, and abatement coordination and monitoring.[821] The plan includes increased OUD treatment capacity and access, including medication-assisted treatment and related support services; harm-reduction measures such as naloxone, syringe services, street medicine, HIV/HCV interventions, and services for opioid-impacted children and families; prevention measures such as prescription monitoring, public education, school-based prevention, and provider education; and statewide surveillance, evaluation, and coordination to

[818] 8/17/26 am TT (Miller) at 4949:14-4950:7.
[819] 8/17/26 am TT (Miller) at 4950:16-25.
[820] 8/17/26 am TT (Miller) at 4955:22-4957:18.
[821] P-04250; P-04263.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

ensure that resources are deployed effectively over time.[822] The Court finds that all of these services are appropriately part of an abatement plan.

392. The plan also addresses the cross-generational harms of the opioid crisis by addressing the need for child welfare and foster care resulting from the opioid crisis,[823] as well as treatment for the toxic stress and developmental injuries suffered by children exposed to opioid-related adverse childhood experiences (ACEs)—such as parental substance abuse, death, incarceration, divorce, violence, and maltreatment—which Dr. Miller identifies as a substantial and lasting part of the nuisance in Washington.[824]

393. Dr. Miller counted as opioid-related ACEs the children of parents who "started misusing prescription opioids and used non-recreationally and are currently using non-recreationally at least four times a year, often in conjunction with prescribed use," unduplicated so that a child with two such parents is counted once, and excluding recreational users because those children "already had that ACE."[825] Dr. Carise agreed that children can be affected by a parent's opioid use, that opioid use disorder "can have an effect on the whole family," and that support groups for families are important.[826] Dr. Selck, applied a threshold of twelve days of misuse a year, but testified that he does not "have an opinion with respect to how many days of misuse are required to reach a certain addiction threshold"[827] The Court questions whether Dr. Miller's definition of the ACE population is reasonable and believes that the ACE population is likely lower than calculated by Dr. Miller and has, accordingly, believes the abatement cost in that category would be lower.[828]

---

[822] P-04250; P-04263.
[823] 8/17/26 pm TT (Miller) at 5035:10-5036:12.
[824] 8/17/26 pm TT (Miller) at 5036:13-5037:3; *see generally id.* at 5037-5050.
[825] 8/17/26 pm TT (Miller) at 5047:7-5048:7.
[826] 8/31/26 pm TT (Carise) at 7091:4-20.
[827] 9/2/26 pm TT (Selck) at 7544:22-7545:5.
[828] To be clear, the Court recognizes the profound impact on children and families of the opioid epidemic. While serving as the Lead Dependency Judge in 2023 and 2024 (outside the relevant

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

394. Importantly, Dr. Miller's plan builds from Washington's existing response efforts,[829] uses Washington-specific data and state input, and is intended to continue until opioid overdose deaths and active OUD rates return to pre-crisis levels, which Dr. Miller projects will require funding from 2026 through 2048, with the ACEs program for children extending to 2055.[830] Dr. Miller testified that stopping in 2036 would leave deaths "at the same level as in 2019," when "[e]verybody thought there was a huge opioid crisis," and would risk "a rebound"; because fentanyl is more lethal, "you've got to get more of them cured to get back to the death rates where they were and to get the health of the population back to where it was."[831] While the Court finds that it is important to avoid a rebound, plan length, particularly as to the ACES program, is an area in which the court diverges from Dr. Miller.

395. More specifically, Dr. Miller's review included, *inter alia*, Multiple Cause of Death Data from Washington, hospital inpatient discharge censuses from Washington, the Washington responses to the National Survey of Drug Use and Health, Washington Medicaid Opioid Use Disorder (OUD) treatment counts, and Washington's PDMP.[832] Furthermore, Dr. Miller examined numerous sources of information directly from the State, including its prior and present State Opioid and Overdose Response Plans, and budgets from various Washington State

---

period) and the judge for Family Treatment Court, the vast majority of children in the dependency/foster care system had parents who struggled with the ravages of opioid use disorder. And, while Dr. Miller's methodology may have overcounted the number of children with ACES, his abatement plan may well have undercounted the costs for DCYF social workers, foster parents, visitation supervisors who are also part of abatement for some children (though treatment resources provided in the abatement plan would include parents and children involved in the dependency system).

[829] 8/17/26 am TT (Miller) at 4960:13-21, 4961:21-4962:1; *see passim* Miller Testimony.

[830] 8/17/26 am TT (Miller) at 4980:20-4983:16 (stopping criteria for plan), 4984:15-23 (2036 and 2048), 4985:20-4986:2 (ACEs continue seven more years); 8/17/26 pm TT (Miller) at 5102:12-19 (2055); *see also* 8/18/26 am TT (Miller) at 5186:20-24.

[831] 8/17/26 am TT (Miller) at 4984:24-4985:19.

[832] 8/17/26 am TT (Miller) at 4959:3-4960:12.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

agencies. He also spoke with "almost sixty different people that were state employees, some of them two and three times," about the needs and programs in Washington.[833]

396. Dr. Miller aligned the plan with Washington's own opioid response plans,[834] and found that "there are many programs that are either serving a part of the state or are in pilot status that are ready for scale-up or serve statewide but are not as heavily funded as they need to be to fully be operational."[835] The program costs in the plan are "mostly drawn from the State's own figures. Wherever I can, I used the State's figures or I expand, based on the -- based on the State's figures, for where they are now."[836] Dr. Miller scaled a State pilot program statewide using the State's own budget figures,[837] expanded hub-and-spoke and opioid treatment network capacity to the levels the State's internal plans called for,[838] used the Department of Corrections' "amazingly detailed budgets,"[839] and increased naloxone purchasing by the seven percent the State's contract manager said was needed.[840] He removed existing funding where it overlapped—"I had to go back and subtract off the ORCA funding so I didn't double-count it"[841]—and unduplicated the tribal programs against the tribal nations' draft plan.[842] With regard to this costing and budgeting work, the Court finds Dr. Miller to be credible and persuasive except as specifically noted herein.

397. Dr. Miller identified the categories of programs, services, and infrastructure that are reasonably necessary to abate the opioid crisis in Washington, and his plan estimates the level and duration of funding required to implement those measures statewide. In so doing, Dr.

---

[833] 8/17/26 am TT (Miller) at 4961:21-4962:1.
[834] 8/17/26 am TT (Miller) at 4960:13-21.
[835] 8/17/26 am TT (Miller) at 4960:22-4961:6.
[836] 8/17/26 am TT (Miller) at 4986:5-22.
[837] 8/17/26 am TT (Miller) at 4994:6-23; P-04246 at 20.
[838] 8/17/26 am TT (Miller) at 5000:1-7.
[839] 8/17/26 am TT (Miller) at 5005:22-5006:1.
[840] 8/17/26 pm TT (Miller) at 5051:17-22.
[841] 8/17/26 am TT (Miller) at 4996:17-23.
[842] 8/17/26 pm TT (Miller) at 5066:8-22.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

Miller applied his experience in health economics, epidemiology, public-health planning, and cost analysis to Washington-specific facts and data. His opinions were credible and helpful to the Court in understanding what a comprehensive abatement response would require and what such a response would cost, though there are some specific areas where the Court finds some of Dr. Selck's criticisms to be valid, primarily related to ACES and to using the OUD rate as the benchmark for success rather than the mortality rate.

398. Dr. Miller's plan was independently corroborated by Dr. Duhigg, who reviewed Dr. Miller's report and evaluated the clinical soundness of its treatment components. Dr. Duhigg testified,[843] and the Court finds, that the opioid use disorder treatment plans set forth in Dr. Miller's report are reasonably necessary to abate the opioid epidemic in Washington. Dr. Duhigg further testified, and the Court finds, that Dr. Miller's plan to address ACEs is clinically sound and appropriate, and is reasonably necessary to abate the damaging effects of the opioid epidemic on adverse childhood experiences in Washington, though the Court finds that it extends for longer into the future than is appropriate and includes a larger number of children than it should. The Court finds that the components of the Abatement Plan are not only economically sound, as established by Dr. Miller, but are also medically and clinically appropriate to abate the nuisance.

399. Dr. Miller calculated the total costs to abate the prescription-related opioid crisis, with the plan beginning in 2026.[844] Asked by the Court whether he was aware "that this case has a time frame from 2006 to 2022 that is -- that sort of creates a parameter for some purposes," Dr. Miller answered, "I was creating a plan from 2026 forward because that's when my plan started."[845] The Court denied Albertsons' motion to strike Dr. Miller's testimony for failing to account for the liability period, finding that "this isn't a situation where the only way to present damages is to have a year by year, and, in fact, in a way, that's the whole point. There's not a

[843] 7/16/26 am TT (Duhigg) at 933:16-938:8; 7/16/26 pm TT (Duhigg) at 1031:23-1033:4.
[844] 8/17/26 am TT (Miller) at 4963:18-24.
[845] 8/18/26 pm TT (Miller) at 5314:6-20.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

way to determine with precision who developed opioid use disorder, in what year, and what their costs are going to be."[846] The Court reaffirms that finding.

400. The cumulative cost of Dr. Miller's plan through 2036 is $25,532,854,159, and approximately $20 billion of the plan is spent after 2036.[847] The Court finds it more appropriate to adopt Dr. Selck's alternative of ending the plan when the OUD criterion alone is met.[848] In addition, the court finds Dr. Selck's ACES model to be more persuasive, which would reduce the cost of abatement by $4.4 billion, and finds that Dr. Selck was persuasive in his position that Dr. Miller understated the rate of reduction in opioid prescribing.

401. Dr. Miller issued his original report on October 10, 2025, and a rebuttal and revised report on January 16, 2026.[849] "In the original plan the total costs exceeded $54 billion. In the final plan they came down to $44.4 billion."[850] Three changes drove most of the reduction: a cell-pointer error in a model of more than 17,500 equations, the omission of the rate at which people offered treatment decline it, and a relapse multiplier corrected from 90 to 82 percent.[851] The corrections did not change Dr. Miller's view of what Washington needs: "They just straightened out problems and how that had gotten modeled in the model."[852] He also added the construction and phasing of residential treatment capacity that the original model had assumed to exist.[853] Asked whether the defense experts had identified any errors after the rebuttal report, he answered, "No, I'm not aware of any."[854] The Court finds that the revision reflects care rather

---

[846] 8/18/26 pm TT at 5317:6-5319:20.
[847] 8/17/26 pm TT (Miller) at 5112:12-5113:7.
[848] *See* 9/2/26 pm TT (Selck) at 7568:3-7569:7 (ending the plan when the OUD rate alone returns to baseline, in 2036, "decreases total costs by $14.2 billion"), 7570:11-7571:4.
[849] 8/17/26 pm TT (Miller) at 5069:20-25.
[850] 8/17/26 pm TT (Miller) at 5070:13-18; *see also* 8/18/26 am TT (Miller) at 5128:6-25 ($54.7 billion with an end date of 2049; "With the corrections and improvements I made, that's correct.")
[851] 8/17/26 pm TT (Miller) at 5070:19-5072:1; 8/17/26 am TT (Miller) at 4965:9-14.
[852] 8/17/26 pm TT (Miller) at 5072:2-5.
[853] 8/17/26 pm TT (Miller) at 5072:6-14.
[854] 8/17/26 pm TT (Miller) at 5083:8-12.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

than unreliability, and that the revised model is a reliable basis for the findings that follow. No Albertsons expert identified any other calculation errors in the revised Miller Plan.

402. Albertsons chose not to present its own abatement plan at trial, but instead called on its experts to challenge certain features of Dr. Miller's plan in an effort to chip away at the overall projected cost. But for the most part the Court was not persuaded by Albertsons' experts, as many of their attempts to undermine Dr. Miller's plan failed to stand up to scrutiny.

403. For instance, both Dr. Selck and Dr. Carise challenged Dr. Miller's determination that 76% of illicit opioid users began abusing opioids with prescription opioids,[855] and that, to the extent the abatement plan attempts to remedy the harms resulting from prescription opioid diversion, the plan should address 76% of the OUD and resulting harms occurring in Washington. But the Court finds that Dr. Miller's 76% figure is well supported in the record.[856] In fact, Albertsons' own internal documents support the finding that *at least* 76% of illicit opioid use (including heroin and fentanyl) is attributable to prescription opioids. [857] And Dr. Carise's past and present views on this figure were proven to be wildly inconsistent, having previously stated, when working for the treatment industry, that "[a]bout 80% of opioid addicts begin with prescription medications for pain."[858]

404. Rather than challenging the 76% figure directly, Dr. Selck chose an alternative figure, 57%, which he found in a paper that was included in Dr. Duhigg's reliance materials.[859] According to Dr. Selck, replacing the 76% figure in Dr. Miller's abatement plan with the 57%

---

[855] 9/2/26 pm TT (Selck) at 7525:23-7526:17 ("Dr. Miller applied the 76 percent, but there's a lot of support for using different rates[.]"); 8/31/26 am TT (Carise) at 6999:24-7000:13 ("My opinion is that rate's too high based on the literature I reviewed.")

[856] *See supra* Section II.E.2; *see also* 8/12/26 am TT (Keyes) at 4501:12-21; 7/16/26 am TT (Duhigg) at 921:1-5; 8/20/26 pm TT (Gilligan) at 582:20-22.

[857] P-00468 at 0009 ("Number of heroin users have more the doubled in 5 years ~80% of new heroin users are coming to heroin after having abus[ed] prescription opioids"); P-00279 at 0059 ("4 of 5 new heroin users started out misusing prescription opioids.")

[858] 9/9/26 am TT (Impeachment Excerpts Read-In) at 8175:10-14.

[859] 9/3/26 am TT (Selck) at 7713:14-19.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

rate he found buried in Dr. Duhigg's reliance materials "reduces the overall cost [of the abatement model] by $3.2 billion."[860] But Dr. Selck never provided an adequate basis for choosing the 57% figure over the abatement plan's 76%, and as explained above, the weight of the substantial evidence adduced at trial, including the testimony of Dr. Duhigg,[861] supports the higher figure.

405. Dr. Selck and Dr. Carise also attacked the cost of Dr. Miller's abatement model by comparing it, unfavorably, to the lower cost of a different abatement model that was presented in Washington's prior suit against wholesale opioid distributors.[862] But the Court did not find this to be an apt comparison. The prior plan was completed in 2019, well before fentanyl deaths spiked in Washington.[863]

406. Further, Dr. Selck criticized the 0.7-1.7% discount rate that Dr. Miller used in his plan, arguing that the proper discount rate is 3%.[864] According to Dr. Selck, applying his reduced rate to Dr. Miller's abatement plan results in a cost reduction of $7.6 billion.[865] But Dr. Selck concedes that the 3% discount rate does not account for medical cost inflation, even though it can be higher than non-medical cost inflation.[866] And given that a vast portion of the State's proposed abatement plan involves medical costs,[867] the Court finds that Dr. Selck erred by failing to account for the higher cost of medical inflation. As such, the Court adopts Dr. Miller's discount rates.

---

[860] 9/2/26 pm TT (Selck) at 7527:9-12.
[861] 7/16/26 am TT (Duhigg) at 921:1-5.
[862] 7/31/26 am TT (Carise) at 7002:12-7003:4; 9/03/26 am TT (Selck) at 7555:2-18, 7722:16-25.
[863] 9/1/26 am TT (Carise) at 7122:3-7123:11; 9/03/26 am TT (Selck) at 7723:1-15.
[864] 9/2/26 pm TT (Selck) at 7515:5-7518:1.
[865] 9/2/26 pm TT (Selck) at 7515:5-7518:1.
[866] 9/3/26 am TT (Selck) at 7708:18-7709:2.
[867] P-04250.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

407. Dr. Selck proposed several other adjustments to Dr. Miller's abatement plan, including a nearly $1 billion reduction to account for the efficacy of Narcan,[868] alternative relapse rates,[869] and lower misuse initiation rates.[870] As to alternative relapse rates, Dr. Selck was unable to provide an adequate basis for his alternative figures.[871] Moreover, in contrast to Dr. Miller, Dr. Selck does not possess any expertise in epidemiology. For all the reasons described above, the Court is not inclined to adopt most of Dr. Selck's proposed adjustments.

408. Dr. Carise's critiques of Dr. Miller's abatement model were similarly premised on alternative calculations of opioid use disorder rates and projected death counts along with the rate of treatment uptake.[872] The Court did not find these proposed changes to the OUD and projected death counts helpful or supported. While Dr. Carise proposed several alternative inputs to Dr. Miller's calculations, she never actually ran them through Dr. Miller's model to determine how they would change the abatement plan, and never presented a counter plan or model of her own. As a result, the Court has no basis to determine how any of Dr. Carise's changed inputs would affect abatement in the State of Washington. While Albertsons' counsel attempted, in closing argument, to use Dr. Carise's alternative inputs to present proposed reductions in addition to those already presented by Dr. Selck,[873] even Dr. Selck testified that Dr. Miller's model is complex, with many inputs and overlapping and confounding factors,[874] and counsel's untested back-of-the-envelope calculations are therefore an inadequate basis to reduce the State's proposed abatement plan.

---

[868] 9/2/26 pm TT (Selck) at 7552:15-7553:2.
[869] 9/2/26 pm TT (Selck) at 7573:19-24.
[870] 9/2/26 pm TT (Selck) at 7524:8-7525:7.
[871] 9/3/26 am TT (Selck) at 7710:5-7712:2 (conceding there is no study supporting his substitute misuse initiation rate); 8/17/26 pm TT (Miller) at 5078:25-5080:8 (explaining the errors in Selck's relapse rate calculation, which Selck never addressed or defended).
[872] 8/31/26 am TT (Carise) 7004:11-7008:25, 7009:11-7012:21.
[873] 9/14/26 pm TT (closing argument) at 8364:3-8365:9.
[874] 9/3/26 am TT (Selck) at 7727:4-25.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

409. To the extent that this order does not expressly identify each reduction proposed by Dr. Selck, or every contrary opinion of Dr. Carise, those remaining adjustments or opinions were also found to be unsupported by the evidence.

410. Additionally, the Court finds that the State's current spending does not measure what abatement requires. Funding for the State's opioid programs is set through the budget process. The Legislature decides what each program receives, and the HCA must spend within that budget.[875] Ms. Kirschbaum, who directs HCA's Division of Behavioral Health and Recovery, was asked whether her funding follows need or availability. She answered: "There is always more need than what we have available funding to get the services up and going."[876] She does not have the money to meet the need for her programs.[877] She turns away communities that want the State's prevention program, and she cannot expand programs that are working without more funding.[878] HCA's chief medical officer, Dr. Zerzan-Thul, testified that HCA lacks funding to evaluate its programs. She said budget shortfalls forced HCA to cut or cancel several services and left others unfunded, and that treatment programs for pregnant and parenting people have wait lists.[879] Dr. Fotinos and the Department of Corrections' director of addiction medicine gave similar testimony.[880] Unspent dollars from the opioid abatement settlement account go back into that account, where the Legislature decides how to allocate them, and unspent federal grant dollars can often be spent in the next biennium through a no-cost extension.[881] Albertsons attempted to argue that the fact that there have been unspent funds suggests a lack of need but

---

[875] 8/6/26 am TT (Kirschbaum) at 3717:1-24.
[876] 8/6/26 am TT (Kirschbaum) at 3712:5-7, 3731:20-3732:2.
[877] 8/6/26 am TT (Kirschbaum) at 3719:11-13, 3731:17-19.
[878] 8/6/26 am TT (Kirschbaum) at 3725:12-17; 8/6/26 pm TT (Kirschbaum) at 3773:2-11, 3774:12-24.
[879] 8/4/26 am TT (Zerzan-Thul) at 3231:4-6, 3250:5-3252:24; 8/4/26 pm TT (Zerzan-Thul) at 3292:6-3293:7.
[880] 8/10/26 am TT (Fotinos) at 3977:4-8; 8/6/26 pm TT (Smith) at 3776:18-22, 3790:12-19.
[881] 8/6/26 am TT (Kirschbaum) at 3735:13-3736:12; 8/6/26 pm TT (Kirschbaum) at 3773:12-3774:5.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

the court finds that argument to be unavailing. Many of these programs are in their start-up phases and there was credible testimony regarding how there can be a time lag before funds can be spent. That some funds designated for a specific purpose are not spent right away suggests careful stewardship of funds, not that there are surplus funds and no further need.

411. Dr. Miller took on a Herculean task, likely one that is impossible to do with precision given the complexity of the opioid crisis and the many and complex components of abatement and how they interact. While the Court finds some of Dr. Selck's critiques to be credible, on balance the Court finds Dr. Miller's plan to be exhaustive, detailed, credible and helpful to the Court. The Court cannot calculate with precision the total abatement figure based on the critiques that the Court adopts of Dr. Selck's, but finds that the cost of abatement is no less than $24 billion and likely closer to $30 billion.

412. Although the State has argued at times that there is a legal basis to require Albertsons to pay the full cost of abatement, at closing it asked that Albertsons pay $2.2 billion of the $44 billion abatement plan. The State did not offer any explanation of how it arrived at that number.

413. The Court does not find it equitable to require Albertsons to pay the entire cost of abatement.

* * *

414. If any of the findings of fact set forth herein shall be deemed a conclusion of law, they are hereby incorporated by reference in the conclusions of law set forth below.

III. CONCLUSIONS OF LAW

A. Public Nuisance

415. In Washington, public nuisance is a statutory cause of action. The general definition of "nuisance" is "unlawfully doing an act, or omitting to perform a duty, which act or omission either annoys, injures or endangers the comfort, repose, health or safety of others,

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

offends decency, or unlawfully interferes with, obstructs or tends to obstruct, or render dangerous for passage, any lake or navigable river, bay, stream, canal or basin, or any public park, square, street or highway, or in any way renders other persons insecure in life, or in the use of property." RCW 7.48.120.

416. A "public nuisance" is a nuisance that "affects equally the rights of an entire community or neighborhood, although the extent of the damage may be unequal." RCW 7.48.130.

417. The Legislature has specifically enumerated certain conditions that are public nuisances, RCW 7.48.140, none of which apply here.

418. "Our case law has recognized that the statutory definition of nuisance is expansive." *Animal Legal Defense Fund v. Olympic Game Farm, Inc.*, 1 Wn.3d 925, 931, 533 P.3d 1170 (2023).

419. *Animal Legal Defense Fund* does not limit public nuisance to conduct previously declared a nuisance by statute or held to be one in prior cases, and "repeatedly reaffirmed that public nuisance claims can arise from conduct that interferes with property or with public health or safety." Dkt. 632 ¶ 7.

420. "Whether a nuisance exists generally is a question of fact." *Kitsap Cty. v. Kitsap Rifle & Revolver Club*, 184 Wn. App. 252, 277, 337 P.3d 328 (2014).

421. Thus, to prevail on its statutory action to abate the public nuisance, the State must establish that: (1) Albertsons acted unlawfully and/or failed to perform a duty, (2) thereby annoying or interfering with public rights, which (3) resulted in injury (*i.e.*, the nuisance itself). RCW 7.48.120; *see also Kitsap County v. Kev, Inc.*, 106 Wn.2d 135, 139, 720 P.2d 818 (1986) ("*Kev*"). The weight of the evidence satisfies each of these elements.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

1. Albertsons Acted Unlawfully

422. As explained in the Court's Order Granting Plaintiff State of Washington's Motion for Partial Summary Judgment as to Albertsons' Duties, Dkt. 633, this Court has concluded that Albertsons had duties both as a dispenser and distributor of controlled substances under both state and federal law. Specifically, as a dispenser, Albertsons, as the corporate parent and owner of its pharmacies in Washington, has a duty under federal and state law to: (1) ensure that its stores dispense controlled substances, including opioids, only pursuant to legitimate prescriptions; (2) implement systems to identify prescriptions with indicia that the prescription is invalid or may be diverted; and (3) not fill opioid prescriptions without first resolving red flags and documenting their efforts to resolve any red flags. Dkt. 633 ¶¶ 3-4. As a distributor, Albertsons was required under federal and state law to maintain effective controls to prevent diversion, including, at a minimum, that Albertsons: (1) design and operate a system to identify suspicious orders; (2) report suspicious orders to the DEA or relevant state authority; and (3) stop shipment of suspicious orders pending investigation and due diligence to determine that the order is unlikely to be diverted into illegal channels. Dkt. 633 ¶¶ 5-6.

423. The Court concludes that, based on the factual findings described above, Albertsons violated each of these duties in distributing and dispensing prescription opioids in Washington.

424. As a dispenser, Albertsons failed to ensure that its stores dispensed opioids only pursuant to legitimate prescriptions, failed to implement systems to identify prescriptions bearing indicia of diversion, and filled red-flagged opioid prescriptions without first resolving the red flags and documenting their resolution. Albertsons dispensed over 6.5 million opioid prescriptions with red flags of diversion, 96% of which were dispensed without documentation that the red flags had been resolved. From that absence of documentation, the Court infers that

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

the red flags were not resolved and a substantial number of opioids were dispensed that should not have been, directly contributing to the opioid epidemic. *See supra* FOF ¶¶ 217, 224, 338.

425. As a distributor, Albertsons did not design or operate a system that identified suspicious orders as defined in 21 C.F.R. § 1301.74(b), and it never reported a single suspicious order to the DEA. Even with respect to Albertsons' existing and inadequate threshold system, which identified almost 12,000 orders that should have triggered an inquiry, Albertsons conducted no meaningful due diligence. Only with respect to 858 of those orders did Albertsons even call its pharmacy to verify that the order was what the pharmacy requested. Albertsons cancelled none of the almost 12,000 orders that its system flagged and shipped each one as the pharmacy requested.

426. Albertsons' dispensing and distribution conduct was therefore unlawful under the CSA and WUCSA.

427. Albertsons was also required, as a registrant, to maintain effective controls against theft, 21 C.F.R. § 1301.71(a), and to notify the DEA in writing of "the theft or significant loss of any controlled substances within one business day of discovery." 21 C.F.R. § 1301.76(b). Among other things, the record demonstrates that Safeway's policies instructed pharmacists not to report losses directly to the DEA, and its failures to maintain effective controls resulted in preventable theft and loss of at least 115,000 opioid pills from its Washington stores. Those failures are independent violations of federal law and further support the Court's conclusion that Albertsons acted unlawfully.

428. In addition, Albertsons' staffing practices impaired its pharmacists' ability to perform the required due diligence and were unlawful in their own right. The DOH twice issued Statements of Deficiencies for "facility staffing." And the Court has found that Albertsons' staffing shortfalls were systemic and by design, and that they impaired its pharmacists' ability to conduct controlled substance due diligence. That conduct violated WAC 246-945-410.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

Because Albertsons' inadequate staffing also undermined the effective controls required by 21 C.F.R. § 1301.71(a) and hindered Albertsons from fulfilling its corresponding responsibility under 21 C.F.R. § 1306.04(a), that conduct violated federal law as well. *See City & Cty. of San Francisco v. Purdue Pharma L.P.*, 620 F. Supp. 3d 936, 970-73 (N.D. Cal. 2022) (finding that Walgreens' inadequate pharmacy staffing contributed to violation of § 1306.04(a)).

429. As explained further below, Albertsons also engaged in conduct that was unlawful under the CPA, which independently supports the unlawful conduct element of the State's public nuisance claim. Albertsons adopted certain corporate systems and practices that prioritized profits over patient safety and which discouraged and/or hindered Albertsons from complying with its anti-diversion responsibilities, thereby endangering the public. The Court concludes below that those business policies and practices are immoral, unethical, oppressive, or unscrupulous and therefore constitute unfair practices under the CPA. The Court likewise concludes that Albertsons violated the CPA by virtue of its unlawful dispensing and distribution practices that violate public policy. Both categories of conduct are unfair practices that are unlawful for purposes of Washington's nuisance statute, RCW 7.48.120, and contributed to the oversupply of opioids in Washington.

430. By its plain language, RCW 7.48.120 makes clear that a public nuisance claim may be based on unlawful conduct. Washington courts have repeatedly recognized this; the statute does not contain any subjective intent or knowledge requirement. For example, in *Kev*, the plaintiff proved a public nuisance claim with evidence that the defendants engaged in "[a]lmost daily violations of controlled substance and prostitution laws." 106 Wn.2d at 139-40. The plaintiff was not separately required to prove the defendant's intent to violate those laws. But even if proof of intent were required, which it is not, the record demonstrates that Albertsons, throughout the relevant period, knew of the duties it violated and of the dangers of prescription

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

opioid diversion, such that this Court finds that the State satisfies any such requirement by a preponderance of the evidence.

431. Albertsons is incorrect that the first element of a statutory nuisance claim requires proof of "wrongful conduct," and that the State was therefore required to prove either a nuisance per se or conduct that was intentional, reckless, or negligent. *See* Dkt. 721, CL ¶¶ 1-23. The nuisance statute defines the first element as "unlawfully doing an act, or omitting to perform a duty." RCW 7.48.120. No requirement of intentional or reckless conduct "appears in Washington's nuisance statutes," Dkt. 632 ¶ 19, and "Washington courts have repeatedly recognized that a nuisance may arise from conduct that violates other laws," Dkt. 632 ¶ 18 (citing *Kev*, 106 Wn.2d at 138-40), without any separate inquiry into the defendant's state of mind.

432. The framework Albertsons proposes would read the word "unlawfully" out of RCW 7.48.120 and replace it with a common-law negligence claim. The Court declines to do so.

433. In addition, the standard under RCW 7.48.120 is not, as Albertsons has framed it, whether its policies and conduct were "reasonable" or "met or exceeded the standard of care."[882] Instead, the standard under RCW 7.48.120 is whether Albertsons unlawfully performed an act or failed to perform a duty. The State has proven this element. How Albertsons' policies compared to industry practice, to the practice of independent pharmacies, or to the "evolving" medical standard of care is irrelevant to whether Albertsons met its legal obligations. *See* Dkt. 721, FF ¶ 147.

434. Moreover, the Court does not rely on Albertsons' policies as the source of its legal duty. *See* Dkt. 633. Instead, Albertsons' policies simply establish that Albertsons recognized that its pharmacists should identify red flags, most of which were the same or similar to the flags that Mr. Catizone used, and document their resolution.

[882] 9/14/26 pm TT (closing argument) at 8313:10-14, 8329:1-5, 8352:3-6, 8382:19-8383:3.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

435. Because the State has proven unlawful conduct under RCW 7.48.120, the Court does not need to decide whether the State has proven a nuisance per se. Similarly, the fact that the dispensing and distribution of prescription opioids are lawful in some circumstances is also irrelevant under RCW 7.48.120.

436. Proof that a particular prescription was in fact illegitimate, or was in fact diverted, is also not required to demonstrate that Albertsons acted unlawfully. *See* Dkt. 632 ¶ 24. The evidence at trial clearly supported the "reasonable inference that Defendants 'dispensed large volumes of illegitimate opioid prescriptions,'" an inference that the Court held the State could prove with aggregate evidence. *Id.* (quoting *San Francisco*, 620 F. Supp. 3d at 1004).

437. The Court previously held that Albertsons had a duty to "not fill opioid prescriptions without first resolving those red flags and document their efforts to resolve any red flags," and that "Washington law imposed the same duties on Albertsons as a dispenser." Dkt. 633 ¶¶ 3-4. Albertsons moved for reconsideration of the documentation component of that ruling, Dkt. 662, and the Court, with the parties' agreement, deferred ruling on that motion.[883] The Court now DENIES the motion for reconsideration and reaffirms its prior ruling as to Albertsons' duties, including the documentation requirement. *See also Pharmacy Drs. Enters., Inc. v. DEA*, 789 F. App'x 724, 730-31 (11th Cir. 2019); *Jones Total Health Care Pharmacy, LLC v. DEA*, 881 F.3d 823, 827-28 (11th Cir. 2018); *Holiday CVS, L.L.C.*, 77 Fed. Reg. 62,316, 62,341 (DEA Oct. 15, 2012); *Hills Pharmacy, LLC*, 81 Fed. Reg. 49,816, 49,835-36 (DEA July 28, 2016); *Superior Pharmacy I & Superior Pharmacy II*, 81 Fed. Reg. 31,310, 31,335 (DEA May 18, 2016).

438. Albertsons has argued that the State's settlements with Kroger[884] and with CVS, Walgreens, and Walmart[885] prove that documentation resolving red flags is not required by law.

---

[883] 8/11/26 am TT at 4275:10-14.
[884] DX0259.
[885] DX0256-0258.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

Albertsons points to provisions, such as the one in the Kroger agreement, that "[a] lack of documentation shall not be interpreted to create a presumption that a pharmacist did not resolve any identified Red Flags,"[886] and to negotiated exceptions to documentation.[887] *See* Dkt. 720 at 14. The Court gives those agreements no weight as to the existence or scope of Albertsons' legal duties during the several decades that preceded those agreements and, under ER 105, restricts their consideration to the purposes for which they were received—the fact and amount of settlement and the related questions of set-off, apportionment, and substantial factor. The Court does not consider them as evidence of the governing legal standard.

439. A consent decree "has a contractual nature," *State v. R.J. Reynolds Tobacco Co.*, 151 Wn. App. 775, 783, 211 P.3d 448 (2009), is entered "without trial or adjudication of any contested issue of fact or law," as the Kroger Consent Judgment indicates, Dkt. 230 at 1, and "[n]o provision of the . . . consent decree applies to or imposes restrictions upon third parties." *R.J. Reynolds*, 151 Wn. App. at 786-87. Its terms reflect what the parties bargained for, not what the law requires.

440. ER 408 independently bars use of a compromise of the State's claims to prove those claims invalid, *Diaz v. State*, 175 Wn.2d 457, 470, 285 P.3d 873 (2012), and a fact-finder is "not entitled to rely on" evidence admitted for a limited purpose "beyond its limited purpose." *Matter of Dependency of A.C.*, 1 Wn.3d 186, 196-97, 525 P.3d 177 (2023).

441. In addition, the settlement agreements themselves provide that their injunctive terms shall not be construed as evidence of "the existence of any legal obligations or requirements other than the requirement to follow these Injunctive Terms," and "shall not be offered or received in evidence or otherwise relied on in any action or proceeding for any purpose other than" enforcement.[888] Each provides that its requirements "are in addition to, and not in

---

[886] DX0259 at 0386.
[887] 9/14/26 pm TT (closing) at 8304:8-8305:25.
[888] DX0259 at 0379; DX0256 at 0619; DX0257 at 0736; DX0258 at 0492.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

lieu of, any other requirements of federal, state, or local law."[889] The CVS and Walmart agreements add that they are not evidence of "the reach, requirements, meaning or interpretation of any statute or regulation."[890]

442. Whether Albertsons' pharmacists in fact resolved the red flags on the prescriptions they filled is a question of fact, and the absence of documentation resolving those red flags supports an inference that in many cases they did not. Dkt. 633 ¶ 3. The DEA has held that "the absence of documentation on the prescriptions is clearly probative evidence that Respondent's pharmacists failed to resolve the strong suspicion presented by many of the prescriptions," *Hills Pharmacy, LLC*, 81 Fed. Reg. 49,816, 49,836 (DEA July 28, 2016), and that "it would be reasonable to draw an adverse inference that a pharmacist failed to resolve a red flag (or flags) from the failure to document the resolution in any manner," *Superior Pharmacy*, 81 Fed. Reg. at 31,335. Albertsons has repeatedly admitted that documentation is necessary to know whether or not red flags have been appropriately resolved.[891]

443. In any event, regardless of whether the law imposes a specific documentation duty, the Court concludes that Albertsons' conduct was unlawful. This Court previously held that, to maintain effective controls as a dispenser, Albertsons had to: (1) ensure that only legitimate prescriptions were dispensed; (2) implement systems to identify red-flagged prescriptions; and (3) resolve red flags prior to dispensing and document those efforts. Dkt. 633 ¶¶ 3-4. Failure to perform any one of these duties is a separate and independent basis for finding a violation of Albertsons' duty to maintain effective anti-diversion controls, and therefore unlawful conduct. And this Court has found that Albertsons failed to perform each duty. In addition, as described below, this Court also concludes that Albertsons engaged in unfair

---

[889] DX0259 at 0377-0378; DX0256 at 0618; DX0257 at 0735; DX0258 at 0490-0491.
[890] DX0256 at 0619; DX0258 at 0492.
[891] 7/15/26 am TT (Aitken WA 30(b)(6) depo vol. 1 (8/20/25)) at 600:20-23.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

practices in violation of the CPA. Each category of unlawful conduct is adequately supported by conduct other than Albertsons' failure to document resolution of red flags.

444. The Fifth Circuit's decision in *Neumann's Pharmacy, L.L.C. v. DEA*, 167 F.4th 320 (5th Cir. 2026), which held that 21 C.F.R. § 1306.04(a) "imposes liability on a pharmacist only if . . . the pharmacist (1) fills (2) an invalid prescription (3) knowingly," *id*. at 328, does not preclude the Court's holding that Albertsons acted unlawfully for purposes of proving the State's nuisance claim. This Court has already ruled that Albertsons' dispensing duties are based not just on 21 C.F.R. § 1306.04(a), but also on 21 C.F.R. § 1301.71(a) and Washington law. Dkt. 633 ¶¶ 3-4. The State's claim of unlawful conduct, therefore, does not depend solely on a violation of § 1306.04(a). Instead, the Court has found unlawful corporate conduct in the failure to maintain effective anti-diversion controls, including the failure to implement systems to identify red-flagged prescriptions, the failure to provide pharmacists the data, training, staffing, and oversight needed to resolve them, the dispensing of millions of prescriptions with unresolved red flags, and unfair practices in violation of the CPA. Moreover, as explained above, the unlawful conduct element of a public nuisance claim does not require intent or knowledge. Here, where the State is using a violation of 21 C.F.R. § 1306.04(a) to show unlawful conduct for a nuisance claim (as opposed to proving a direct violation of that regulation, as was at issue in *Neumann's*), the Court concludes that the State need not prove intent. *Neumann's* is simply inapplicable to proving unlawful conduct for a nuisance under Washington law. In any event, even if *Neumann's* were applicable, the State has established knowledge sufficient to prove a violation of 21 C.F.R. § 1306.04(a). For example, Albertsons knew the red flags that indicated a potentially illegitimate prescription—among other things, it listed them in its own policies. And it knew from its own audits and dispensing reviews that its pharmacists were dispensing those prescriptions without resolving the red flags.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

445. This Court rejects Albertsons' suggestion that it did not engage in any unlawful conduct because its pharmacists had "a duty to deliver lawfully prescribed drugs or devices to patients . . . in a timely manner" under WAC 246-945-415(2) (formerly WAC 246-869-010). The duty to deliver extends only to "lawfully prescribed" drugs. A prescription that is not issued in good faith for a legitimate medical purpose is not a valid prescription, RCW 69.50.308(h); Dkt. 633 ¶ 7, and a pharmacy that fills a red-flagged prescription without resolving the red flag has not established that the drug was lawfully prescribed. The duty to fill and the corresponding responsibility are two sides of the same obligation: fill legitimate prescriptions, and only legitimate prescriptions. Indeed, PQAC's October 2013 newsletter, its executive director agreed, reminded pharmacists "that they have both a corresponding responsibility and a duty to fill."[892]

446. The Court concludes that Albertsons cannot rely on PQAC's role to limit Albertsons' duties. Those duties are fixed by federal and state law, Dkt. 633 ¶¶ 3-6, and the State's "policies, regulations and other conduct will not be admitted for fault-shifting to the State or equitable defenses." Dkt. 699. PQAC regulates more than 5,300 facilities, from hospital pharmacies to wholesalers to researchers, through periodic inspections and complaint-driven investigations. *See supra* FOF ¶¶ 138-39. It sees PMP data only in a particular investigation, and there is no evidence that it had access to Albertsons' own dispensing data. *See supra* FOF ¶¶ 139-40. PQAC's decision not to publish a list of red flags or issue a rule requiring documentation did not relieve Albertsons of its obligation to maintain effective anti-diversion controls or document due diligence under federal and state law. Albertsons' own Seattle Division director agreed that documentation should happen "whether someone from the outside told you that or not."[893] Similarly, the absence of PQAC discipline is not a finding that Albertsons complied with the law. *See supra* FOF ¶ 142.

[892] 7/22/26 pm TT (O'Neill) at 1703:21-1704:9, 1707:1-5 (discussing DX0080).
[893] 7/29/26 pm TT (Green) at 2777:1-5.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

447. It is also immaterial that the DEA and the State renewed Albertsons' registrations and licenses throughout the relevant period or may have otherwise approved of certain policies or practices. Dkt. 721, CL ¶ 147. Not exercising discretion to prosecute or enforce the law does not mean that the DEA or the State determined that Albertsons' conduct was lawful. Registration and licensure are not adjudications of compliance: the DEA "shall register an applicant" to distribute controlled substances unless registration is inconsistent with the public interest, 21 U.S.C. § 823(b), (f), and must register a pharmacy that state law authorizes to dispense controlled substances, though it may deny a registration that would be inconsistent with the public interest, 21 U.S.C. § 823(g)(1). Moreover, the record demonstrates that the DEA investigated and brought enforcement actions against Albertsons and Safeway multiple times. And by Albertsons' own account, the DEA suspended the controlled substances license of at least one of its Washington pharmacies. Dkt. 721, FF ¶ 106.

2. Albertsons Interfered With Public Rights

448. The Court concludes that the State has also proven the second element of its public nuisance claim: Albertsons' unlawful conduct annoyed, injured, and endangered the comfort, repose, health, and safety of the public and interfered with rights held in common by all Washingtonians. *See* RCW 7.48.120; *see also* RCW 7.48.010 (nuisance is "whatever is injurious to health . . . so as to essentially interfere with the comfortable enjoyment of the life and property").

449. This Court concludes that Albertsons' unlawful distribution and dispensing conduct endangered the comfort, repose, health, and safety of Washingtonians. The evidence shows that Albertsons' unlawful distribution and dispensing of opioids, as well as their unfair corporate practices prioritizing profits over patient safety in violation of the CPA, contributed to a public health crisis that violated the public's right to be safe, healthy, and secure in their communities, and also interfered with the public's use of public parks, libraries, and other public

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

spaces. The Court's findings explain how public health, safety, comfort, and use of public spaces have been harmed by the opioid epidemic. These interferences with public health, safety, and comfort affected the public in Washington, even if everyone was not harmed to the same degree. *See* RCW 7.48.130.

450. Washington law does not require an interference with property, Dkt. 632 ¶¶ 6, 9, but even if it did, the State's evidence at trial demonstrated how Albertsons' unlawful oversupply of prescription opioids helped fuel the opioid crisis, which impacted public property, such as public parks, playgrounds, sidewalks, and libraries.

451. The evidence at trial also showed that Albertsons' conduct interfered with communal, public rights. For example, the oversupply of opioids strained emergency medical services, hospitals, and emergency rooms with overdose calls and admissions; drug courts, jails, and prisons were overburdened with opioid-driven crime and addiction; the child-welfare system was forced to absorb children whose parents are addicted, incarcerated, or dead; infants born in withdrawal; the spread of hepatitis C, HIV, and other infections; needles and drug paraphernalia in public spaces; and a public library that must post security guards, mount sharps containers in every restroom, and train librarians to administer naloxone. Those are not individual injuries or an aggregation of private harms. Albertsons' conduct affected all Washingtonians, impairing their public rights to health, safety, and the use and enjoyment of public spaces. The mere fact that public health and public safety are experienced by individuals does not make them private rights, because the public's health and safety can only be affected through the health and safety of its members. Rather, these are interferences with public rights because they "can clearly affect an entire neighborhood or community." *Kev*, 106 Wn.2d at 139; *see* RCW 7.48.130.

452. RCW 7.48.130 does not require proof that the public nuisance impacted every Washingtonian in the same way and to the same degree. Instead, the statute states that "the extent of the damage may be unequal." RCW 7.48.130. The rights at stake here—public health and

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

safety, public systems that are not overwhelmed by addiction and overdose, and parks, sidewalks, and libraries that can be used without encountering needles, drug dealing, and overdoses—are communal rights that are jointly held and shared by every resident of the State.

453. The Court concludes, therefore, that the State has proven that Albertsons' unlawful dispensing and distribution of prescription opioids, together with its unfair business practices in violation of the CPA, interfered with public rights—the health, safety, comfort, and repose of the people of Washington and their use and enjoyment of public spaces—and therefore created a public nuisance. The Court further concludes that the interference with these public rights affected the entire community, even though not all residents were harmed in the same way or to the same degree. Albertsons' unlawful conduct jeopardized all Washingtonians' public safety and public health and interfered with their use and enjoyment of public spaces.

454. The Court's conclusion is confirmed by *Kev*. There, the Washington Supreme Court held that "[a]lmost daily" violations of controlled substance laws "is activity that violates the comfort, repose, health, or safety of others, and can clearly affect an entire neighborhood or community." 106 Wn.2d at 139. The evidence at trial of Albertsons' unlawful conduct exceeds the conduct in *Kev* by orders of magnitude in scale, duration, and reach. Conduct of that kind, on that scale, "can clearly affect an entire neighborhood or community," and the State has proven that it did.

3. Albertsons Was Both a Cause-in-Fact and Proximate Cause of the Public Nuisance.

455. Washington courts "have consistently recognized two elements of proximate cause: cause in fact and legal causation." *Dunnington v. Virginia Mason Med. Ctr.*, 187 Wn.2d 629, 636, 389 P.3d 498 (2017); Dkt. 636 ¶ 1. As this Court previously held, "[c]ause in fact is ordinarily established by 'but for' causation," but "in a narrow class of cases," Washington instead applies the substantial factor test where the case "fits within a *Daugert* exception." Dkt.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

636 ¶ 1 (quoting *Dunnington*, 187 Wn.2d at 636-37, and citing *Daugert v. Pappas*, 104 Wn.2d 254, 704 P.2d 600 (1985)). Legal causation is a fluid concept regarding whether the connection between the defendant's conduct and the ultimate result is too remote or insubstantial to impose liability as a policy matter. *Tyner v. Dep't of Soc. & Health Servs.*, 141 Wn.2d 68, 82, 1 P.3d 1148 (2000). The Court addresses cause in fact in subsection (a) and legal causation in subsection (b).

a. Substantial Factor Causation

456. As this Court held before trial, cause in fact in this case is governed by the substantial factor test. Dkt. 636 ¶¶ 1-3. The Court identified three circumstances in which that test applies: "(1) either of multiple forces was sufficient to cause the same harm; (2) the defendant's act hastened or otherwise contributed to a harm that likely would have occurred in a similar way absent the act; or (3) the defendant's contribution is clearly established but the harm is not susceptible to rational apportionment." Dkt. 636 ¶ 1 (citing *Daugert*, 104 Wn.2d at 262). The Court concluded that "one or more of the *Daugert* exceptions apply" because the State alleged "a prolonged flood of prescription opioids into Washington contributed to by numerous actors, including Defendants," which "caused diversion into illicit channels and expansive statewide public harms . . . that [are] not susceptible to rational apportionment by prescription, store, or prescriber." Dkt. 636 ¶ 2; *see also id.* ¶ 3 (citing *Roemmich v. 3M Co.*, 21 Wn. App. 2d 939, 949-50, 509 P.3d 306 (2022); *King County v. Express Scripts, Inc.*, No. 24-cv-49-BJR, 2025 WL 1082130, at *5 (W.D. Wash. Apr. 10, 2025); *In re Nat'l Prescription Opiate Litig.*, 589 F. Supp. 3d 790, 808 (N.D. Ohio 2022)).

457. The trial record confirms that the substantial factor test is appropriate here because the State's nuisance claim falls within all three *Daugert* circumstances (though only one is necessary to support application of substantial factor causation). First, the evidence demonstrates that Albertsons' own conduct—dispensing millions of red-flagged opioid

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

prescriptions without resolving the flags, filling the prescriptions of prescribers it had itself identified as outliers, shipping every order flagged by its threshold system, and permitting roughly 115,000 opioid pills to be lost or stolen from its own pharmacies—was itself sufficient to interfere with the public health and safety of Washington communities, regardless of others' conduct. Second, the evidence also demonstrates that Albertsons' distribution and dispensing conduct exacerbated and contributed to Washington's opioid epidemic, even if the epidemic would likely have occurred absent Albertsons' conduct. Third, and most clearly applicable, the evidence demonstrates that the opioid epidemic in Washington is a single, continuing statewide condition produced by the combined conduct of many actors over more than two decades—manufacturers, distributors, prescribers, pharmacies, and those who diverted and trafficked the drugs—and that its harms cannot be rationally apportioned by prescription, store, or prescriber. The witnesses on both sides described the crisis as the product of multiple contributing factors. As the Court noted at the close of the State's case, "every witness has recognized the complexity of the opioid crisis and multiple factors involved."[894] And Albertsons itself argued in closing that "the opioid crisis is the product of a complex system involving manufacturers, distributors, prescribers, regulators, illegal drug dealers, and then pharmacies."[895]

458. A substantial factor "is defined as a factor that is not insignificant or trivial." Dkt. 632 ¶ 22 (citing *Mavroudis v. Pittsburgh-Corning Corp.*, 86 Wn. App. 22, 28, 935 P.2d 864 (1997); *Roemmich*, 21 Wn. App. 2d at 950). The test exists for exactly this situation: "[w]hen the conduct of two or more actors is so related to an event that their combined conduct, viewed as a whole, is a but-for cause of the event," the substantial factor test applies instead because otherwise "application of the but-for rule to them individually would absolve all of them." *Mavroudis*, 86 Wn. App. at 30 (internal quotation marks omitted). Because the substantial factor

[894] 8/27/26 am TT at 6768:15-18.
[895] 9/14/26 pm TT (closing) at 8367:14-18.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

test governs, the State is not required to prove that the epidemic would not have occurred "but for" Defendants' conduct. *See* Dkt. 636 ¶ 5.

459. In denying Albertsons' motion for summary judgment, the Court observed that, if the State proved at trial that Albertsons dispensed over 641 million opioid pills into Washington between 2006 and 2022, that over sixty percent of those prescriptions bore red flags, and that Albertsons documented due diligence on only four percent of them, "a factfinder could reasonably determine such a contribution to Washington's opioid oversupply, diversion, and resulting harms is not insignificant or trivial, but constitutes a substantial factor." Dkt. 632 ¶ 23. The State proved those facts and more. Indeed, the most reasonable inference from Albertsons' wholesale failure to document the resolution of 96% of red-flagged prescriptions, despite the requirement (both under federal law and Albertsons' own policies) to document resolution of red flags, is that its pharmacists did not resolve those flags, which likely led to diversion of prescription opioids that contributed to Washington's opioid crisis.

460. The evidence has also shown that, as a distributor, Albertsons shipped more than 30 million opioid pills to its Washington stores without a system capable of identifying suspicious orders. Under its threshold system it flagged 11,953 order lines from Washington pharmacies, documented calls on only 858 of them, cancelled none of them, shipped each one as the pharmacy requested, and never reported a single suspicious order to the DEA.[896]

461. Throughout the relevant period Albertsons also adopted staffing, training, compliance, and incentive practices that left its pharmacists without the time, tools, and guidance

[896] P-04105; P-00949 (11,953 order lines are flagged when Column O is filtered to ORDER QTY > 20% OF STORE AVG or ORDER QTY > STORE AVG + SOM; 858 of those lines have an entry in Column F or G); 8/13/26 pm TT (Provenzano WA 30(b)(6) depo (9/9/25)) at 4771:5-13, 4772:16-22, 4779:18-21; 8/13/26 pm TT (Beck NM FACT depo (2/18/22)) at 4824:1-4, 4850:19-4851:19, 4853:6-17; 8/17/26 am TT (Price CT9 FACT depo (7/28/23)) at 4890:13-4893:11.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

needed to ensure that only legitimate prescriptions were dispensed. And Albertsons failed to prevent significant thefts and losses, which indisputably contributed to diversion in Washington.

462. Applying the substantial factor test to the evidence adduced at trial, the Court concludes that Albertsons' unlawful dispensing and distribution, exacerbated by its business practices that put volume ahead of diversion control, was a substantial factor—not an insignificant or trivial one—in creating the oversupply of prescription opioids in Washington, the diversion that followed, and the public nuisance described above. Albertsons is therefore a cause in fact of the nuisance.

463. Washington law recognizes that harm may have more than one cause operating concurrently and that liability may attach to each concurrent cause. Dkt. 636 ¶ 4; *see also Travis v. Bohannon*, 128 Wn. App. 231, 242, 115 P.3d 342 (2005). The Court has considered the other causes Albertsons identified at trial, including the manufacturers' marketing, the liberalization of prescribing standards, prescribers who wrote illegitimate prescriptions, other distributors and pharmacies, patients who shared or sold their medications, and the traffickers who supplied heroin, illicit fentanyl and counterfeit pills, and concludes that these causes do not preclude this Court from determining that Albertsons was a substantial and concurrent factor in creating Washington's opioid oversupply and the resulting public nuisance. Dkt. 632 ¶ 26. "Even a very small proportional contribution by one of numerous defendants could equate with a rather large and substantial absolute quantity, both in monetary terms and in terms of the consequent harms." *In re Nat'l Prescription Opiate Litig.*, 589 F. Supp. 3d at 809. Albertsons' contribution was not small in proportion, and it was very large in absolute terms.

464. Albertsons' motion for reconsideration of the Court's summary judgment ruling on substantial factor causation (Dkt. 636), which asked the Court to defer the divisibility question to trial, *see* Dkt. 665, is now DENIED as moot; the question has been tried and the Court concludes that the harm is not divisible. As a result, *Mayor & City Council of Baltimore v.*

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

Purdue Pharma, L.P., 2025 WL 1707625 (Md. Cir. Ct. June 12, 2025), *vacated on other grounds*, 356 A.3d 2 (Md. 2026), does not apply. *See* Dkt. 720 at 13 n.1.

465. The Court rejects Albertsons' argument that the State had to prove that Albertsons' conduct was sufficient by itself to cause the opioid crisis. Such a rule would absolve all contributors to a harm that none of them could have produced alone. The substantial factor test was designed to avoid such an unjust result. *See Mavroudis*, 86 Wn. App. at 30.

466. Albertsons urged this Court to be the first in Washington to apply the three-part test of Restatement (Second) of Torts § 433 and *Hines v. Data Line Systems, Inc.*, 114 Wn.2d 127, 148-49, 787 P.2d 8 (1990), to decide whether its conduct was a substantial factor in causing the nuisance. Dkt. 776 at 8-10.[897] The Court declines to take that novel step. Washington courts have used those factors—under the name "substantial contributive factor"—to decide whether a defendant may be liable as a "seller" under RCW 21.20.430(1) of the Securities Act of Washington. *See Hines*, 114 Wn.2d at 148-49; *Haberman v. Washington Public Power Supply System*, 109 Wn.2d 107, 131-32, 744 P.2d 1032 (1987); *Herrington v. David D. Hawthorne, CPA, P.S.*, 111 Wn. App. 824, 829-34, 47 P.3d 567 (2002). Courts have not applied those factors to determine proximate cause in a tort case. *See Sharbono v. Universal Underwriters Insurance Co.*, 139 Wn. App. 383, 420-21, 161 P.3d 406 (2007) (in securities cases "courts instructed on substantial factor to assist the jury in determining whether a defendant was liable as a 'seller' under The Securities Act of Washington, chapter 21.20 RCW, not to determine proximate cause in tort liability cases"). Albertsons cites no Washington decision applying this three-part test to a tort claim, and the Court is aware of none.

467. Albertsons argues that the substantial factor test "is not satisfied where the defendant makes 'a clearly proven but quite insignificant contribution to the result, as where he throws a lighted match into a forest fire.'" Dkt. 721, CL ¶¶ 29-30 (quoting *Daugert*, 104 Wn.2d

[897] 9/14/26 pm TT (closing) at 8340:18-8341:5.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

at 262); *see* Dkt. 720 at 15 (arguing that Albertsons' prescriptions "account for no more than an infinitesimal contribution to the opioid epidemic, if any at all").[898]

468. The Court agrees with that statement of law but rejects its application here. Albertsons dispensed more than 6.5 million prescriptions with red-flag indicators of potential diversion into Washington communities over sixteen years, and documented the resolution of those red flags on only 4% of the prescriptions before dispensing. Albertsons also continued to fill the prescriptions of prescribers whose licenses were later suspended or revoked due to improper opioid prescribing and whom its own data reviews had already identified as potential pill mill doctors. Albertsons also shipped every one of almost 12,000 thousand orders that tripped its own distribution thresholds. Based on this and other evidence, the Court concludes that Albertsons' contribution to the oversupply and diversion of prescription opioids in Washington was plainly substantial, not insignificant or trivial.

469. The Court rejects Albertsons' argument that its contribution cannot have been substantial because its share of the Washington dispensing market was 11.4 percent by its expert's calculation or 14.8 percent by the State's, far below the 58.7 percent share Walgreens held in the San Francisco market in *City & County of San Francisco v. Purdue Pharma L.P.*, 620 F. Supp. 3d 936 (N.D. Cal. 2022), and because its self-distribution accounted for only 0.6% (the State's expert's calculation) or 0.37% (Albertsons' expert's calculation) of the total shipments into the State. *See* Dkt. 632 ¶ 25. Although Albertsons focuses on market share, other numbers are less favorable for Albertsons. For example, where Walgreens dispensed 155,763,131 opioid pills in San Francisco between 2006 and 2020, 620 F. Supp. 3d at 950, Albertsons dispensed over 640 million in Washington between 2006 and 2022, more than three times as many as Walgreens. *See supra* FOF ¶ 133.[899] In any event, a defendant's market share

[898] 9/14/26 pm TT (closing) at 8342:8-14.
[899] *See also* P-04107 at 0002.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

is irrelevant under the substantial factor test because a substantial factor is one in which the defendant's own conduct was a non-trivial contributor to the harm. *See, e.g.*, Dkt. 632 ¶ 22. The Court confidently concludes that Albertsons was a non-trivial contributor to Washington's opioid oversupply and opioid epidemic.

470. As this Court previously found, the State was permitted to prove its case with aggregate evidence, as opposed to prescription-by-prescription evidence. Dkt. 632 ¶ 24. The evidence that a majority of Albertsons' opioid prescriptions bore red flags and that almost none were documented as resolved supports "a reasonable inference that Defendants 'dispensed large volumes of illegitimate opioid prescriptions and that [they] made the opioid epidemic in [Washington] worse than it otherwise would have been.'" *Id*. (quoting *San Francisco*, 620 F. Supp. 3d at 1004).

471. Albertsons argues that *San Francisco* is distinguishable.[900] But the Court relies on *San Francisco* for the narrow point that, when evidence demonstrates that most of a pharmacy's opioid prescriptions bore red flags, and almost none were documented as resolved, a court can draw the inference that the pharmacy dispensed large volumes of illegitimate prescriptions. The evidence here supports a similar inference. Walgreens' San Francisco pharmacies "received over one million opioid prescriptions that presented red flags," and the plaintiff's expert found "evidence of an appropriate effort to resolve red flags in fewer than 5% of cases." *San Francisco*, 620 F. Supp. 3d at 979, 988. Albertsons dispensed 6.5 million red-flagged opioid prescriptions, 61.6 percent of all the opioid prescriptions it filled, and failed to document sufficient due diligence on 96 percent of the flagged prescriptions in the sample. *See supra* FOF ¶¶ 133-34.[901]

---

[900] 9/14/26 am TT (closing) at 8270:19-21.

[901] Beyond the reasonable inference to be drawn from the almost complete failure to document resolution of red flags, there are the multiple specific examples of inappropriate dispensing which bolster the legitimacy of that inference, e.g. dispensing over 5.5 million pills to patients of Drs. Kammeyer, Mann, Schulz, Kirkpatrick and Arnold who later had their licenses

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

472. Any factual differences between *San Francisco* and this case do not change the Court's conclusion. In any event, Albertsons overstates those factual differences. First, while Albertsons notes that Walgreens' pharmacists admitted filling prescriptions they should not have,[902] Judge Breyer found that the problem "was not limited to the pharmacists who testified." *San Francisco*, 620 F. Supp. 3d at 979. Comparable evidence exists as to Albertsons improperly filling prescriptions. *See, e.g.*, FOF ¶ 246 (filling for customer selling drugs in parking lot), FOF ¶¶ 271, 274 (dispensing prescriptions to couple caught selling OxyContin). Second, Albertsons argues that, unlike Walgreens, its pharmacists were free to refuse prescriptions and had no fill-time quota.[903] But a Seattle Division pharmacist reported that district pharmacy manager Cliff Amend had "emphasized on many occasions that the DV (data verification) process should be completed in less than 30 seconds,"[904] and Albertsons' pharmacists were plagued by the same type of understaffing as described in *San Francisco*. *Compare* 620 F. Supp. 3d at 988-89, *with* Section II.D.1.b. Third, Albertsons suggests that *San Francisco* depended upon the standard of practice in California.[905] But the duty to resolve and document red flags here rests on federal and state law, as in *San Francisco*. 620 F. Supp. 3d at 998 (finding violation of 21 C.F.R. § 1306.04(a)); *see, e.g.*, COL ¶¶ 422, 427, 428. Federal law is the same and, with respect to state law, the standard of practice is the same in Washington as in California. *See supra* FOF ¶ 80. In any event, the Court concludes that the State has proven unlawful conduct here apart from the failure to document red flag resolution. *See supra* COL ¶ 443.

---

suspended, including dispensing over 650,000 pills to their patients after Albertsons was put on specific notice of concerns by their own pharmacists. P-00796.

[902] 9/14/26 am TT (closing) at 8271:5-21.

[903] 9/14/26 am TT (closing) at 8272:6-8273:12.

[904] P-04057 at 0001; 7/29/26 am TT (Green) at 2580:4-7.

[905] 9/14/26 am TT (closing) at 8273:18-8274:7; 9/14/26 pm TT (closing) at 8291:15-21, 8300:21-8301:4.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

473. Albertsons' evidence about a change in prescribing standards does not alter the Court's conclusion that Albertsons was a substantial factor in creating Washington's opioid oversupply and the resulting public nuisance for at least three reasons. First, the Court has found that the injudicious prescribing of opioids has never been the standard of care in Washington, and Albertsons' own expert conceded that nothing about the "evolution" of the standard of care authorized physicians to prescribe opioids without a legitimate medical purpose. Second, the volume of prescribing is not what the Court has found unlawful; it is that Albertsons dispensed millions of prescriptions with unresolved red flags and shipped every suspicious order. Third, Dr. Keyes' testimony supports the Court's finding that the volume and oversupply of opioids contributed to the harm, and that "to the extent that pharmacists did not engage in due diligence, that certainly would be associated with increased opioid supply," which is causally associated with increased OUD, mortality, and related harms, including depression of economic conditions in a community.[906]

474. The evidence also demonstrates that Albertsons was not just a substantial factor in the prescription opioid epidemic, but also in the heroin and fentanyl crises that currently comprise a large part of Washington's opioid epidemic and the public nuisance. The State presented, and Albertsons' documents and witnesses conceded, that there is a causal relationship, recognized by the scientific consensus, between prescription opioid use and later heroin and fentanyl use. Even if people who transition from prescription opioids to heroin or fentanyl have often used other substances, prescription opioid abuse was a substantial factor in that heroin or fentanyl abuse. *See supra* FOF ¶¶ 350-54, 357.

475. The Court has considered Albertsons' argument based on DX2166 that it dispensed a lower percentage of red-flagged prescriptions than any other Washington pharmacy,

[906] 8/13/26 am TT (Keyes) at 4653:16-4654:6; 8/12/26 am TT (Keyes) at 4476:3-4477:13, 4483:1-22.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

but the Court is unpersuaded. The conclusion Albertsons draws from DX2166 is misleading. DX2166 is an apples-to-oranges comparison as it compares one population of customers that filled opioid prescriptions at Albertsons to a differently defined population that filled opioid prescriptions at other pharmacies.[907] Albertsons did present an apples-to-apples comparison of the red-flagging rate at Washington pharmacies in DX2164, and it shows Albertsons' red flag rate is comparable to its peers, but also higher than Rite-Aid, Walmart, Walgreens, CVS, Fred Meyer, Bartell, and Kroger.[908] In any event, the relevant issue is not how Albertsons compared to other pharmacies, but whether Albertsons was a substantial factor contributing to Washington's oversupply and diversion of opioids. It was. That other pharmacies may also have contributed does not reduce Albertsons' contribution or negate its liability. Dkt. 632 ¶ 25.

476. The conduct of the State, federal agencies, opioid manufacturers, and other actors does not diminish Albertsons' contribution, make it insignificant, or preclude the Court from concluding the Albertsons was a substantial factor in causing the public nuisance. The fact that the State filed complaints against other contributors to Washington's opioid crisis is not inconsistent with the State's action here. As noted, there can be concurrent causes of harm. In addition, the State's guidelines and policies never made injudicious prescribing or abdication of corresponding responsibility the standard of care. The DEA's production quotas on the quantity of opioids that could be manufactured nationally is irrelevant to whether any particular prescription presented at an Albertsons pharmacy was issued for a legitimate medical purpose or presented red flags of diversion. But even if other actors contributed to Washington's public nuisance, they are concurrent causes of the nuisance and do not undermine Albertsons' liability.

477. Although the Court credited Dr. Keyes' opinion that the oversupply of prescription opioids into Washington communities, including through pharmacies that failed to

[907] DX2166; 9/2/26 am TT (Selck) at 7457:22-7459:5.
[908] DX2164; 9/2/26 am TT (Selck) at 7454:25-7455:13; 9/3/26 am TT (Selck) at 7660:6-12.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

exercise due diligence, was a substantial cause of the epidemic, her opinion is not the sole basis for the Court's conclusion that Albertsons was a substantial factor in causing the public nuisance. The Court's decision is also based on the evidence that Albertsons was a large and sustained part of that oversupply because it did not exercise the diligence the law required. That proof came not only from Dr. Keyes but also from Albertsons' own dispensing and distribution data, its policies, reviews, and correspondence, the testimony of its managers and compliance personnel, and the analyses of Mr. Catizone and Dr. McCann.

478. At the close of the State's case the Court denied Albertsons' motion under CR 41(b)(3), stating that, although Albertsons "raises some serious issues related in particular to causation and damages," the State had "shown enough that they would be entitled to get to a jury and they are entitled to get to me as a fact-finder following presentation of all of the evidence," and deferring judgment to the close of evidence.[909] When it rested, Albertsons "formally renew[ed] its Rule 41 motion on both the Consumer Protection Act claim and the public nuisance claim for the reasons that had been fully briefed and argued to the Court."[910] Having now heard all of the evidence and for the reasons stated herein, the Court DENIES Albertsons' renewed motion under CR 41(b)(3).

b. Proximate Causation

479. The Court further concludes that Albertsons' conduct was a legal cause of Washington's opioid epidemic. Legal causation "rests on policy considerations as to how far the consequences of defendant's acts should extend," and where "the factual elements of the tort are proved, determination of legal liability will be dependent on 'mixed considerations of logic, common sense, justice, policy, and precedent.'" *Hartley v. State*, 103 Wn.2d 768, 778-79, 698 P.2d 77 (1985). The question is "whether, as a matter of policy, the connection between the

[909] 8/27/26 am TT at 6767:19-6768:2.
[910] 9/9/26 am TT at 8163:21-8164:5.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

ultimate result and the act of the defendant is too remote or insubstantial to impose liability." *Schooley v. Pinch's Deli Market, Inc.*, 134 Wn.2d 468, 479, 951 P.2d 749 (1998); *see Tyner v. Dep't of Soc. & Health Servs.*, 141 Wn.2d 68, 82, 1 P.3d 1148 (2000). "The underlying policy considerations relevant to duty, including foreseeability, are the starting points of the legal cause analysis." *Meyers v. Ferndale Sch. Dist.*, 197 Wn.2d 281, 293, 481 P.3d 1084 (2021).

480. The Court reserved the question of proximate causation for trial because "[w]hether the State's harms were foreseeable is an inherently factual question." Dkt. 632 ¶ 27.

481. Under Washington law, foreseeability does not ask whether the precise harm or the precise sequence of events was predictable. "[T]he pertinent inquiry is not whether the actual harm was of a particular kind which was expectable. Rather, the question is whether the actual harm fell within a general field of danger which should have been anticipated." *McLeod v. Grant Cnty. Sch. Dist. No. 128*, 42 Wn.2d 316, 322, 255 P.2d 360 (1953). "[T]he harm sustained must be reasonably perceived as being within the general field of danger covered by the specific duty owed by the defendant." *Maltman v. Sauer*, 84 Wn.2d 975, 981, 530 P.2d 254 (1975); *Christen v. Lee*, 113 Wn.2d 479, 492, 780 P.2d 1307 (1989).

482. "The sequence of events, of course, need not be foreseeable. The manner in which the risk culminates in harm may be unusual, improbable and highly unexpectable, from the point of view of the actor at the time of his conduct." *McLeod*, 42 Wn.2d at 322; *accord Rikstad v. Holmberg*, 76 Wn.2d 265, 269, 456 P.2d 355 (1969) ("It is not, however, the unusualness of the act that resulted in injury to plaintiff that is the test of foreseeability, but whether the result of the act is within the ambit of the hazards covered by the duty imposed upon defendant."). "Where harm to a person protected by a statute is a foreseeable result of the statute's violation, liability may be imposed." *Schooley*, 134 Wn.2d at 477. "Whether harm falls within the scope of a duty turns on foreseeability and is generally a question of fact." *Scott v. Amazon.com, Inc.*, 6 Wn.3d 1, 13, 583 P.3d 1155 (2026).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

483. The specific duties Albertsons owed as a distributor and dispenser of controlled substances are fixed by the Court's prior order, *see* Dkt. 633 ¶¶ 3-5, and include, in both capacities, the duty "to maintain effective controls against diversion of controlled substances," 21 C.F.R. § 1301.71(a). The "general field of danger covered by the specific duty," *Maltman*, 84 Wn.2d at 981, is therefore diversion—the movement of prescription opioids "from legitimate channels to illegitimate channels," Dkt. 633 ¶ 7 (quoting *United States v. Moore*, 423 U.S. 122, 135 (1975))—and the harms that follow from it. Applying that test to the findings, the Court concludes that the opioid epidemic in Washington fell within the general field of danger covered by Albertsons' duties. For example, the Court has found that the oversupply of prescription opioids into Washington communities was "the dominant driver and the instigator"[911] of the epidemic of OUD and overdose; that "the more opioids that are available within a community, the more likely it is that opioids will be diverted and end up into the wrong hands";[912] that diversion produced a secondary market, non-medical use, addiction, and overdoses; and that the harms to the State's public health, public safety, public property and public services followed. Those harms are not an unusual or unexpected culmination of dispensing unresolved red-flagged prescriptions and shipping suspicious orders without investigation; they are the very reason the duties exist.

484. The Court concludes, therefore, that the opioid crisis in Washington was a foreseeable consequence of Albertsons' conduct. It was entirely predictable that the oversupply of opioids into Washington, in disregard of measures to prevent diversion, would lead to diversion and its attendant harms, including a secondary criminal market for opioids, drug abuse, addiction, and overdoses. Indeed, those are some of the very harms the federal and state regulatory structures are designed to prevent.

---

[911] 8/12/26 am TT (Keyes) at 4478:2-9.

[912] 8/10/26 pm TT (Arndorfer WA Fact depo (7/10/25)) at 4111:6-14.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

485. As this Court previously recognized, the federal and state laws that Albertsons violated were enacted to protect the health and safety of communities from drug diversion. *See* Dkt. 633 ¶ 7; *see also, e.g., Moore*, 423 U.S. at 135 (when enacting the CSA, "Congress was particularly concerned with the diversion of drugs from legitimate channels to illegitimate channels."); *Gonzales v. Raich*, 545 U.S. 1, 12-13 (2005) (same). Washington's Legislature found in 2010 that "[d]rug overdose is the leading cause of unintentional injury death in Washington state, ahead of motor vehicle related deaths"; in 2015 that "the annual number of deaths involving heroin or prescription opiates increased from two hundred fifty-eight in 1995 to six hundred fifty-one in 2013"; and in 2017 that "medically prescribed opioids intended to treat pain have contributed to the opioid epidemic." Dkt. 633 ¶ 8 (quoting Laws of 2010, ch. 9, § 1; Laws of 2015, ch. 205, § 1(2); Laws of 2017, ch. 297, § 1). Here, where the Legislature has determined that prescription opioids fed the epidemic and that diverted pills came from the prescriptions pharmacies fill, *see* RCW 69.48.010(2), the harms the State proved are, as a matter of law and of fact, within the field of danger the controlled-substance laws address. *Schooley*, 134 Wn.2d at 478.

486. Albertsons knew all of this. The Court has found that Albertsons knew the requirements of the CSA, the WUCSA, and their regulations and that the purpose of those requirements was to prevent diversion and its consequences. The Court has also found that Albertsons was aware of the opioid epidemic, including from State and federal communications that Albertsons received, and that Albertsons' claim that the dangers of prescription opioids were not well known in the early days of the epidemic is not credible. For example, Albertsons' former director of pharmacy compliance agreed that "a bad pharmacy or pharmacist who is not carrying out their corresponding responsibility appropriately, [and] not identifying and resolving and documenting red flags, could also do a lot of harm to a community."[913] Albertsons' own internal

[913] 7/13/26 TT (Covaci WA FACT depo (9/9/25)) at 189:8-24 (discussing P-00855).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

documents recognized pharmacies as the "last line of defense" against diversion, and its presentations acknowledged that prescription opioid abuse frequently leads to heroin addiction. Albertsons' knowledge of diversion and the opioid crisis, including as evidenced in its own manuals and training, indicates that the harms were not beyond "the range of expectability." *McLeod*, 42 Wn.2d at 323.

487. The State's evidence shows, and the Court has found, that Albertsons failed to maintain effective controls against diversion in its dispensing and distribution practices and put prescription volume ahead of diligence, and that the supply of prescription opioids in Washington increased massively over the same period, foreseeably producing opioid misuse, addiction, overdose, diversion, and an illegal secondary market—an epidemic that has damaged public health and public safety throughout Washington. Other courts have reached the same conclusion on similar evidence. *See, e.g.*, *In re Nat'l Prescription Opiate Litig.*, MDL 2804, No. 1:17-md-2804, 2019 WL 4178617, at *3 (N.D. Ohio Sept. 3, 2019) (evidence of failure to maintain effective controls against diversion sufficient to establish causation); *City & Cnty. of San Francisco v. Purdue Pharma L.P.*, 491 F. Supp. 3d 610, 680, 690 (N.D. Cal. 2020) (the duties to maintain effective controls against diversion "support[] the notion that opioid misuse is foreseeable"); *State v. McKesson Corp.*, No. 19-2-06975-9 SEA, 2021 WL 6297481, at *2 (Wash. Super. Ct. Sept. 1, 2021) ("[o]ther courts have recognized that a distributor's failure to maintain effective controls against diversion leads directly and foreseeably to the types of public health harms the State has alleged here").

488. It was also foreseeable that once individuals developed opioid use disorder, they were likely to seek out illicit opioids, including heroin and fentanyl. The transition from prescription opioids to heroin and illicit fentanyl was within the field of danger, and it was in fact foreseen by Albertsons. The evidence demonstrated that because prescription opioids and

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

illicit opioids such as heroin have similar pharmacological properties,[914] there is the potential for substitution with one or the other when one is unavailable or available at a lower cost, and there is a causal relationship,[915] recognized by the scientific consensus, between prescription opioid use and later heroin and fentanyl use.

489. The evidence also demonstrates that Albertsons foresaw this migration from prescription opioids to heroin. Albertsons' own 2016 pharmacy compliance presentation to its district managers stated that "80% of new heroin users are coming to heroin after having abus[ed] prescription opioids."[916] Albertsons' own addiction expert agreed that "75 percent of people with heroin dependence initiated regular opioid use with prescription opioids."[917]

490. The Court rejects Albertsons' argument that the current fentanyl crisis was not reasonably foreseeable to Albertsons. Foreseeability does not require that Albertsons must have anticipated in 2006 the particular drug that would dominate the illicit market in 2026; instead, it requires that the harm fall within the general field of danger covered by Albertsons' dispensing and distribution duties. *McLeod*, 42 Wn.2d at 322; *Rikstad*, 76 Wn.2d at 269. That persons who became dependent on diverted or improperly dispensed prescription opioids would seek cheaper and stronger opioids from the illicit market, and that the illicit market would supply them, is squarely within that field. Moreover, Albertsons continued to dispense opioids and fill red-flagged prescriptions in Washington through 2022, after the fentanyl crisis began.

491. Even if conduct by other actors also contributed to the nuisance, none of that conduct constitutes an intervening act that breaks the chain of causation because the harms were foreseeable. Under Washington law, intentional or criminal intervening acts by third parties do not break the chain of causation if those acts were foreseeable: "only intervening acts which are

---

[914] 7/14/26 pm TT (Price WA FACT depo (9/3/25)) at 526:22-527:8; 8/12/26 pm TT (Keyes) at 4581:11-16; 7/16/26 am TT (Duhigg) at 917:5-11.
[915] 8/12/26 am TT (Keyes) at 4500:13-17, 4506:17-4507:7.
[916] P-00411 at 0004; 8/13/26 am TT (Amend depo) at 4726:18-4727:6.
[917] 8/31/26 pm TT (Carise) at 7106:21-7107:1.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

not reasonably foreseeable are deemed superseding causes." *Crowe v. Gaston*, 134 Wn.2d 509, 520, 951 P.2d 1118 (1998) (quoting *Cramer v. Dep't of Highways*, 73 Wn. App. 516, 520, 870 P.2d 999 (1994)); *Michaels v. CH2M Hill, Inc.*, 171 Wn.2d 587, 613, 257 P.3d 532 (2011). An intervening act is unforeseeable in this sense only when it is "so highly extraordinary or improbable as to be wholly beyond the range of expectability." *McLeod*, 42 Wn.2d at 323; *Christen*, 113 Wn.2d at 492. "The foreseeability of an intervening act, unlike the determination of legal cause in general, is ordinarily a question of fact." *Crowe*, 134 Wn.2d at 521.

492. Washington follows the Restatement's rule when the intervening act is the very thing the defendant was supposed to guard against: "If the likelihood that a third person may act in a particular manner is . . . one of the hazards which makes the actor negligent, such an act whether innocent, negligent, intentionally tortious, or criminal does not prevent the actor from being liable for harm caused thereby." *Michaels*, 171 Wn.2d at 613-14 (quoting *Campbell v. ITE Imperial Corp.*, 107 Wn.2d 807, 812-13, 733 P.2d 969 (1987)). Put another way, where the harm "is one of the particular risks that made the defendant's conduct negligent, it is obviously a consequence for which the defendant must be held legally responsible." *Meyers*, 197 Wn.2d at 294 (restating *McLeod*, 42 Wn.2d at 324-25).

493. The Court rejects what Albertsons describes as intervening causes, including "the criminal acts of others, which Albertsons had no ability to control," and "the abuse of illicit opiates—heroin and illicit fentanyl—which Albertsons has never dispensed," Dkt. 721, CL ¶ 33; *see id.*, FF ¶¶ 171-174, 265-266, 272-273.[918] The Court also rejects "thefts, undetected illicit prescribing, end-user abuse, doctor-or pharmacy-shopping, and medicine cabinet diversion," Dkt. 721, FF ¶ 273, and users who buy, misuse or divert illicit opioids, and drug traffickers. *Id.* FF ¶ 266(a)-(g). Under Washington law, none of these acts is a superseding cause unless it was unforeseeable, and none was. Each is a recognized form of diversion and why red-flag and

[918] 9/14/26 pm TT (closing) at 8345:2-8346:12, 8349:2-8351:22.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

suspicious-order duties exist. A registrant charged with maintaining effective controls against diversion cannot claim that diversion was not foreseeable.

494. Medicine-cabinet diversion is also not a superseding cause. The legislative finding that "about seventy percent of those who abuse prescription medicines obtain the drugs from family members or friends," RCW 69.48.010(2), demonstrates that diversion from the medicine cabinet was known, common, and expected, meaning that it was foreseeable.

495. In sum, the Court concludes that the State has shown a direct link between Albertsons' conduct and the resulting harm, and any criminal conduct was not an independent intervening cause because it was a foreseeable result of Albertsons' conduct.

496. The Court finds that diversion of prescription opioids, the associated risk of addiction, overdose and death, the growth of an illicit market in prescription and counterfeit opioids, the transition of persons made dependent on prescription opioids to heroin and illicit fentanyl, and the burdens those harms place on Washington's public health, public safety, and public services were not only foreseeable consequences of dispensing opioid prescriptions with unresolved red flags and of shipping suspicious orders without investigation, but that Albertsons in fact foresaw them. The Court therefore concludes that the connection between Albertsons' unlawful conduct and the public nuisance is neither remote nor insubstantial, that no intervening act was a superseding cause, and that Albertsons' conduct was a legal cause of the public nuisance.

497. Albertsons is therefore both a cause in fact and a legal cause of the nuisance, and the third element of the State's public nuisance claim is established.

4. The State's Abatement Plan Describes the Appropriate Remedy and Must be Funded In Part by Albertsons

498. Washington's nuisance statutes authorize the Court to order that a nuisance "be abated, or removed at the expense of the defendant, and after inquiry into and estimating, as

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

nearly as may be, the sum necessary to defray the expenses of such abatement, the court may issue a warrant therefor." RCW 7.48.260. "The expense of abating a nuisance, by virtue of a warrant, can be collected by the officer in the same manner as damages and costs are collected on execution." RCW 7.48.280.

499. The statutes themselves distinguish abatement from damages: "[t]he abatement of a nuisance does not prejudice the right of any person to recover damages for its past existence." RCW 7.48.180. Here, the State does not seek damages for the nuisance's past existence, but only abatement of the nuisance that continues. This Court has already recognized that a nuisance may be abated "at the expense of the defendant." Dkt. 632 ¶ 29 (citing *Matter of a Public Nuisance Located at 14514 66th Ave. E, Puyallup, Pierce Cty., Wash. (Tax Parcel No. 4015423910)*, 29 Wn. App. 2d 1003, 2023 WL 8589975, at *6-7 (Dec. 12, 2023) (unpublished) (upholding award of abatement costs in a public nuisance case)).

500. The State has shown that the opioid crisis in Washington, and its interference with public health, public safety and the use and enjoyment of public spaces, continues to exist. Albertsons' own expert and other witnesses agreed.

501. Abatement is an equitable remedy, measured by the cost of the programs, services, and infrastructure reasonably necessary to remedy the condition that constitutes the nuisance. RCW 7.48.260 ("the sum necessary to defray the expenses of such abatement"). The award is forward-looking and remedial by nature: it funds the response reasonably required to abate the ongoing public health and safety crisis that the Court has found to exist. The scope of that remedy is determined on the full trial record by the scope of the nuisance. Dkt. 632 ¶ 28.

502. The nuisance the Court has found is a condition, not merely a course of conduct: the ongoing prevalence of OUD and overdose death in Washington and the communal harms that follow from it, which Albertsons' unlawful distribution and dispensing helped create and maintain. An injunction against Albertsons' future dispensing would leave that condition in

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

place. Abating it requires treatment capacity, harm-reduction, prevention and coordination measures, each of which is directed at the condition itself.

503. The Fourth Circuit has expressly recognized that abatement can include "recovery for the extensive harms of opioid abuse and addiction," and held that the "remedy of abatement may be applied both to compel the cessation of wrongful conduct and to provide for the remediation of harmful conditions caused by that conduct." *City of Huntington v. AmerisourceBergen Drug Corp.*, 157 F.4th 547, 573, 574 (4th Cir. 2025).

504. After consideration of the State's Abatement Plan, including treatment, harm reduction, primary prevention, and coordination and monitoring, and of Albertsons' criticisms of it addressed below, the Court concludes that the State has proven its entitlement to abatement relief and to the resources needed to abate the public nuisance.

505. The State requested that the Court order Albertsons to pay abatement in the amount of $2.2 billion. It did not clearly articulate how it determined that that amount – roughly 1/20 of Dr. Miller's $44 billion abatement plan – is the appropriate figure. In light of the Court's determination that the abatement cost is likely lower, and in light of the Court's assessment of Albertson's contribution to the nuisance (opioid crisis), the Court finds that Albertsons should pay $800 million to abate the opioid crisis in Washington. As discussed further below, there is no entitlement to offset for the amounts paid by other pharmacies, manufacturers, distributors or other contributors who may have settled with the State, as the Court has taken those settlements into account and is ordering Albertsons to pay only a fraction of the total abatement cost.

506. The Court directs the State to establish a trust to receive and conserve that amount, which Albertsons shall pay as set out below, for the sole purpose of implementing the Abatement Plan. The governing documents of the trust are subject to the Court's approval. Other than paying the sums ordered, Albertsons shall have no role in the design or implementation of the Abatement Plan.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

507. The abatement award is not punitive and does not duplicate the State's CPA remedies. Abatement under RCW 7.48.260 and .280 funds a portion of the cost of remedying the nuisance that Albertsons helped create and maintain; the civil penalties imposed under RCW 19.86.140 serve the distinct purposes of deterrence and vindication of the law, as well as depriving Albertsons of its unlawful gains. Each remedy serves a different purpose and is measured by a different metric; while the Court does make an equitable adjustment to the CPA award in light of the abatement award, the abatement award does not overlap withthe CPA relief.

508. Nor is the total amount necessary to abate the nuisance reduced by payments from sources independent of Albertsons. Washington's collateral source rule is a rule of substantive tort law as well as of evidence: payments whose origin is independent of the tortfeasor do not reduce the wrongdoer's obligation, and the rule "need not be conditioned on some payment by the plaintiff for the benefit received." *Ciminski v. SCI Corp.*, 90 Wn.2d 802, 804-06, 585 P.2d 1182 (1978); *Cox v. Spangler*, 141 Wn.2d 431, 439-41, 5 P.3d 1265 (2000); *Johnson v. Weyerhaeuser Co.*, 134 Wn.2d 795, 803, 953 P.2d 800 (1998). The rule applies here. Indeed, the Court excluded such evidence of collateral sources before trial, Dkt. 709 (Order Granting State's Motion in Limine to Preclude Evidence of True Collateral Sources (MIL #2)).

509. The Court concludes that the State's appropriations do not accurately reflect the amount of abatement required. *See supra* FOF ¶ 410. The witnesses who run the State's programs testified that funding is set by what is available, not by need. *See id.* They also testified regarding the inadequacy of State funding compared to the need.

510. The Court further concludes that the State's Abatement Plan properly considers baseline information on the capacity and costs of the current programs. Dr. Miller built the plan from the State's own response plans and internal plans, its agency budgets, and interviews with nearly sixty State employees. In addition, the program costs are drawn mostly from the State's

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

own figures; Dr. Miller removed existing funding where it overlapped and unduplicated the tribal programs, and the Health Care Authority's fact sheets for each existing program are in evidence.

511. Where the defendant's contribution to an indivisible harm is established and no reasonable basis for division has been proven, "each of the causes is charged with responsibility for the entire harm." Dkt. 636 ¶ 4 (quoting *Moyer v. Clark*, 75 Wn.2d 800, 804-05, 454 P.2d 374 (1969)). The Court concludes that Albertsons did not carry its burden to prove any apportionment of the abatement award. No witness, including Dr. Selck, offered an opinion allocating responsibility for the nuisance among the manufacturers, distributors, prescribers, regulators, illicit sources, or other pharmacies. Although Dr. Selck was posed a hypothetical about a one-sixth pharmacy share based on what Dr. Selck understood to be "one allocation method that's been used by a court in determining allocation of abatement costs," he testified that he was not opining that the pharmacy industry was responsible for one-sixth of the crisis.[919] Dr. Selck agreed that the deductions he proposed to the Miller plan were "what you call a thought experiment to determine what Albertsons' costs in this case could be."[920] And he agreed with the Court that the six groups he used "interact in complicated ways, you can't divide them neatly into six."[921] The Court concludes that there is no credible factual basis in the record to support a one-sixth share for pharmacies.

512. Nor do the State's complaints against other actors supply a reasonable basis for apportionment. The Court admitted nine complaints the Attorney General filed against opioid manufacturers, distributors, marketing consultants, and two pharmacy chains.[922] By their terms, the complaints are consistent with the State's case here and with the Court's findings: many actors contributed to Washington's opioid crisis. Dkt. 636 ¶ 2; *see supra* COL ¶¶ 457, 476. None

---

[919] 9/2/26 pm TT (Selck) at 7576:16-7577:11.
[920] 9/3/26 am TT (Selck) at 7708:6-11.
[921] 9/3/26 pm TT (Selck) at 7767:12-7768:12.
[922] DX3061; DX3748; DX3064; DX0843; DX3575; DX3574; DX0846; DX0844; DX3062; 9/2/26 am TT at 7359:12-7360:11, 7367:25-7368:7.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

quantifies a percentage of the harm attributable to the defendant sued or to anyone else. The percentages Albertsons proposed in closing for Purdue, the other manufacturers, the distributors and the pharmacies came from counsel, not from the complaints or from any witness.[923]

513. Albertsons' market share is not a measure of Albertsons' contribution to the nuisance, Dkt. 632 ¶ 25, and the trial record confirmed why: what matters is not the *share* of total opioid prescriptions dispensed, but the volume of prescriptions dispensed without resolving and documenting red flags, which bears on the amount of diversion. Dr. Selck himself testified that market share "is fully distinct relative to the share of nonmedical prescription opioid dispensing" and "could be driven by a variety of different legitimate reasons."[924]

514. The Court concludes that the abatement remedy should not be reduced because of any alleged contribution by the State to the nuisance. First, the Court ruled before trial that the State's "policies, regulations and other conduct will not be admitted for fault-shifting to the State or equitable defenses," a ruling Albertsons "did not oppose." Dkt. 699 at 2. Second, the Court has found that none of the liberal prescribing guidelines Albertsons relies on relieved pharmacies of their corresponding responsibility or their duty to maintain effective anti-diversion controls.

515. This Court concludes that other pharmacy chains' settlements of other litigation do not alter this Court's conclusion as to the appropriate amount of abatement. A settlement is a compromise of disputed claims, negotiated in the shadow of litigation risk and without any adjudication of liability, causation, or harm. It is not evidence of what abatement requires or of what a defendant adjudged responsible for a public nuisance must pay. The multistate agreements confirm this: for example, the Kroger agreement provides that its injunctive terms "shall not be offered or received in evidence or otherwise relied on in any action or proceeding

[923] 9/14/26 pm TT at 8370:22-8371:3, 8371:25-8372:4, 8375:13-14, 8376:5-8.
[924] 9/2/26 pm TT (Selck) at 7580:3-11.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

for any purpose other than" an action to modify, enforce or monitor compliance with them,[925] and that they are "in addition to, and not in lieu of, any other requirements of federal, state, or local law."[926] The prior settlements bear on the abatement remedy here in only one way: Albertsons is entitled to a credit for amounts the State has received from other pharmacy defendants for the same nuisance, which the State does not dispute.[927] The abatement amount set above, *see supra* COL ¶ 505, already reflects that credit, consistent with RCW 4.22.060(2).

516. The Court observes that Albertsons offered no abatement plan of its own and no witness who identified any program in the State's plan as unnecessary. Dr. Selck agreed that he had never before constructed an abatement plan for opioid harms, that he is "not offering any opinions regarding the medical necessity of any of the interventions opined on by Dr. Miller," or "opining that any programs or components of Dr. Miller's plan should be removed."[928] Dr. Carise "wasn't asked to" put a plan together, is "not comfortable making any recommendations on what should or should not be funded," "wouldn't have looked at cost," and is "not at all" opposed to funding the types of programs Dr. Miller recommends.[929] Even after the ten adjustments Dr. Selck testified about, the plan stood at $21.8 billion.[930]

517. The Court has considered whether the State's plan is unreliable because Dr. Miller revised his October 2025 estimate from $54.7 billion to $44.4 billion after reviewing the defense expert reports. But the Court concludes that Dr. Miller's correction is a mark of care, not unreliability. Dr. Miller explained each of the three principal corrections and testified that they "just straightened out problems and how that had gotten modeled in the model" without

---

[925] DX0259 at 0379; *see also* DX0259 at 0054.
[926] DX0259 at 0378.
[927] 9/14/26 pm TT (closing rebuttal) at 8385:19-20.
[928] 9/3/26 am TT (Selck) at 7707:10-24.
[929] 8/31/26 pm TT (Carise) at 7039:5-7, 7090:20-24; 9/1/26 am TT (Carise) at 7123:25-7124:5; 8/31/26 am TT (Carise) at 6996:14-16.
[930] 9/2/26 pm TT (Selck) at 7579:11-19; 9/14/26 pm TT at 8359:9-14.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

changing his view of what Washington needs, and the trial testimony of Albertsons' experts identified no computational errors in the revised plan.[931]

518. Dr. Carise's criticisms were qualitative. She quantified no dollar adjustment, reviewed no cost figures, and offered no alternative. Her criticism of Dr. Miller's treatment-uptake rate, which she put at 29.5 percent, relied in part on the National Survey on Drug Use and Health, which she acknowledged excludes the homeless, the incarcerated, and people already in treatment—populations she did not consider. Her alternative case-fatality rate was never stated as a number, and its effect on the plan was never calculated.

519. The Court concludes that the plan's residential-treatment and administrative costs are supported by the weight of the evidence. Dr. Miller priced residential beds at the lowest per-bed cost of four recently completed Washington facilities among fifteen he surveyed, a figure in the lower quartile of the fifteen.[932] The Department of Commerce report on which Albertsons relies itself lists Washington inpatient treatment projects costing more than $1 million per bed.[933] The data-and-evaluation allowance (three percent) and the administration-and-coordination allowance (eight percent) are drawn from the federal set-aside for health programs and from the literature on large government programs, and total $1.08 billion and $3.28 billion respectively.[934]

520. "A court in equity has broad discretion to fashion a remedy to do substantial justice and end litigation." *Cogdell v. 1999 O'Ravez Family, LLC*, 153 Wn. App. 384, 390-91, 220 P.3d 1259 (2009) (citing *Hough v. Stockbridge*, 150 Wn.2d 234, 236, 76 P.3d 216 (2003)). The Court exercises that discretion by directing that the abatement funds be paid into a trust established by the State for the sole purpose of implementing the Abatement Plan, with

---

[931] 8/17/26 pm TT (Miller) at 5070:13-5072:5; 8/18/26 am TT (Miller) at 5128:8-20.
[932] 8/17/26 pm TT (Miller) at 5020:7-14.
[933] DX3905 at 0064, 0071.
[934] 8/17/26 pm TT (Miller) at 5068:20-5069:11; 8/18/26 am TT (Miller) at 5241:1-3.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

governing documents subject to the Court's approval and annual reporting to the Court on receipts, expenditures, and program outcomes.

521. The Court retains jurisdiction over the parties and the abatement proceeds as necessary to enforce this judgment and to supervise the administration of the trust.

522. The Court will enter any such further orders pertaining to the implementation of the Abatement Plan as necessary in due course.

B. Consumer Protection Act

523. The Attorney General may bring a CPA action on behalf of State residents to restrain "unfair or deceptive acts or practices in the conduct of any trade or commerce." RCW 19.86.020, 19.86.080. The State must prove: (1) an unfair or deceptive act or practice; (2) in trade or commerce; (3) that impacts the public interest. *State v. TVI, Inc.*, 1 Wn.3d 118, 140, 524 P.3d 622 (2023). The State is not required to prove injury or causation. *State v. Mandatory Poster Agency, Inc.*, 199 Wn. App. 506, 518, 398 P.3d 1271 (2017); *see also State v. Ralph Williams' North West Chrysler Plymouth, Inc.*, 87 Wn.2d 298, 320-21, 553 P.2d 423 (1976) (Attorney General's action, unlike a private action under RCW 19.86.090, does not require proof of damages); *Montes v. Sparc Group LLC*, 6 Wn.3d 321, 330, 586 P.3d 999 (2026).

524. The State may establish liability on the basis of either "unfair" or "deceptive" acts, or both. *Klem v. Washington Mut. Bank*, 176 Wn.2d 771, 787, 295 P.3d 1179 (2013).

525. The CPA does not define unfair or deceptive acts, but instead its meaning "evolve[s] through a gradual process of judicial inclusion and exclusion." *Klem*, 176 Wn.2d at 787 (quoting *Saunders v. Lloyd's of London*, 113 Wn.2d 330, 344, 779 P.2d 249 (1989)). The Washington Supreme Court has also "not yet attempted to define the phrase 'unfair acts or practices' for the purposes of [the] CPA." *Greenberg v. Amazon.com, Inc.*, 3 Wn.3d 434, 458, 553 P.3d 626 (2024).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

526. "By broadly prohibiting 'unfair or deceptive acts or practices in the conduct of any trade or commerce,' RCW 19.86.020, the Legislature intended to provide sufficient flexibility to reach unfair or deceptive conduct that inventively evades regulation." *Panag v. Farmers Ins. Co. of Washington*, 166 Wn.2d 27, 49, 204 P.3d 885 (2009).

527. "The universe of 'unfair' business practices is broader than, and encompasses, the universe of 'deceptive' business practices." *Id.* at 51.

528. There are two ways to establish unfair or deceptive practices: (1) a per se unfair trade practice, which occurs when there is a violation of a statute that has been declared by the Legislature to constitute an unfair or deceptive practice within the meaning of the CPA; or (2) an unfair act or practice not regulated by statute but in violation of public interest. *Klem*, 176 Wn.2d at 787.

529. Whether a particular act or practice is unfair or deceptive is a question of law. *Greenberg*, 3 Wn.3d at 474; *see also* Dkt. 633 ¶ 9 (citing *Leingang v. Pierce Cnty. Med. Bureau, Inc.*, 131 Wn.2d 133, 149-50, 930 P.2d 288 (1997)).

530. In determining whether an act or practice is unfair, Washington courts traditionally consider three factors: (1) whether the practice offends public policy, as it has been established by statutes, the common law, or otherwise; (2) whether it is immoral, unethical, oppressive, or unscrupulous; or (3) whether it causes substantial injury to consumers. *Id.* at 455, 458. However, "there may even be additional ways that a plaintiff can show that [an] act or practice that is unregulated by statute is unfair." *Id.* at 459. The State here relies on the first two factors.

531. "Trade" and "commerce" are defined under the CPA to "include the sale of assets or services, and any commerce directly or indirectly affecting the people of the state of Washington." RCW 19.86.010(2).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

532. Trade or commerce has generally been interpreted to exclude professional services, but the "learned professions are not immune at common law . . . from CPA claims." *Wright v. Jeckle*, 104 Wn. App. 478, 483, 16 P.3d 1268 (2001). Even as to professional services, the entrepreneurial aspects of those services fall within the CPA's "trade or commerce" requirement. *Michael v. Mosquera-Lacy*, 165 Wn.2d 595, 603-05, 200 P.3d 695 (2009).

533. Entrepreneurial conduct includes business policies, administrative systems, marketing, billing practices, and other operational decisions that govern how services are delivered and sales are made. *See Short v. Demopolis*, 103 Wn.2d 52, 60-61, 691 P.2d 163 (1984); *Quinn v. Connelly*, 63 Wn. App. 733, 742-43, 821 P.2d 1256 (1992).

534. "Whether professional conduct implicates entrepreneurial aspects of a profession is a question of fact." *Wright*, 104 Wn. App. at 482.

535. An unfair or deceptive act or practice affects the public interest if there is a "likelihood that additional plaintiffs have been or will be injured in exactly the same fashion." *Stephens v. Omni Ins. Co.*, 138 Wn. App. 151, 178, 159 P.3d 10 (2007), *aff'd sub nom. Panag*, 166 Wn.2d 27 (2009).

536. The CPA must be liberally construed to serve its purposes. RCW 19.86.920.

537. The CPA, however, "shall not be construed to prohibit acts or practices which are reasonable in relation to the development and preservation of business or which are not injurious to the public interest." RCW 19.86.920. Albertsons broadly interprets this provision to immunize any practice motivated by a "legitimate business" concern.[935] The Court declines to interpret this exception to CPA liability so broadly, as the exception would swallow the rule. Instead, "[a]cts which are done in good faith under an arguable interpretation of the law," "or which are not injurious to the public interest," do not violate the CPA. *Cox v. Lewiston Grain Growers, Inc.*, 86 Wn. App. 357, 374, 936 P.2d 1191 (1997). The Court concludes that Albertsons failed to

[935] 9/14/26 am TT (closing) at 8268:17-20.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

present evidence that falls within this exception to CPA liability. Albertsons has not demonstrated that its conduct was pursuant to a good faith, arguable interpretation of the law or that its conduct did not injure the public interest. To the contrary, Albertsons' conduct violated its own policies and training materials and resulted in the very harms its own training materials recognized as the consequence of inappropriate dispensing.

1. Albertsons' Unfair Practices

538. The State has offered evidence of two types of practices that it contends are unfair practices that violate the CPA: (1) Albertsons' distribution and dispensing of prescription opioids in violation of its federal and state duties under the CSA and WUCSA to implement effective controls against diversion; and (2) Albertsons' corporate policies and practices that prioritized profits over safety by encouraging increased dispensing and discouraging due diligence of prescriptions. As explained below, the State has proven that these practices offend public policy and were immoral, unethical, oppressive, or unscrupulous. *See Greenberg*, 3 Wn.3d at 455, 458. Because the State does not argue that these practices were unfair based on the third unfairness factor—substantial injury to consumers—this Court does not address that factor.

a. Practices That Offend Public Policy

539. As this Court previously held, both federal and state law require Albertsons to maintain effective controls against diversion. *See* Dkt. 633 ¶¶ 3-6. Those laws, this Court held, "reflect well-established public policies to protect the health and safety of communities from drug diversion." Dkt. 633 ¶ 7. The Court likewise held that "Washington has strong public policies in favor of protecting the public from opioid-related harms." Dkt. 633 ¶ 8 (citing Laws of 2017, ch. 297, § 1; Laws of 2015, ch. 205, § 1(2); Laws of 2010, ch. 9, § 1).

540. This Court has also held that "violations of those duties are properly analyzed under the public-policy prong of the CPA's unfairness test," Dkt. 633 ¶ 10, and reserved for trial "[t]he factual question of whether specific acts by Albertsons violated these statutes or

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

regulations, and were thus 'unfair' under the public-policy prong." Dkt. 633 ¶ 11. Whether particular conduct is unfair is a question of law, Dkt. 633 ¶ 9, and the Court now resolves that question on the trial record.

541. As described above, the Court found that Albertsons failed to design and operate a system to identify suspicious orders of controlled substances; to investigate and halt suspicious orders; or to report suspicious orders to the DEA. Albertsons likewise failed to identify, resolve, and document the resolution of red flags prior to dispensing 96% of red-flagged prescriptions. These failures contravene Washington's public policies to protect consumers and the public from drug diversion and opioid-related harms.

542. Because Albertsons' dispensing and distribution conduct offends public policy established by statutes, including the CSA and WUCSA, that conduct constitutes unfair practices within the meaning of the CPA. Those statutes were enacted to prevent diversion, while Albertsons' distribution and dispensing practices flouted those laws and contained no meaningful anti-diversion controls.

543. The public policies at issue were not unclear, unsettled, or in conflict with other obligations during the relevant period. Albertsons concedes that it has a legal responsibility to prevent diversion, that its pharmacists have always had a corresponding responsibility to ensure that the prescriptions they dispense have been issued for legitimate medical purposes, and that these duties have remained constant over time. The regulatory "duty to deliver" on which Albertsons relies does not create a competing policy. That duty extends only to "lawfully prescribed drugs." Dkt. 721, CL ¶ 45 (quoting WAC 246-945-415(2)). A prescription that was not "issued in good faith for a legitimate medical purpose" is not a lawful prescription, RCW 69.50.308(h)[8], and a pharmacist who fills a red-flagged prescription without resolving the red flag cannot know whether the prescription is lawful such that the "duty to deliver" would be triggered.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

544. Albertsons suggests that the State seeks to hold it liable for not adhering to industry standards.[936] But Albertsons' duties are imposed by statute and regulation, Dkt. 633, not industry standards. Albertsons' reliance on *Griffith v. Centex Real Estate Corp.*, 93 Wn. App. 202, 217 n.7, 969 P.2d 486 (1998), is therefore misplaced. *Griffith* holds only that "[m]ere proof that a contractor is a second-rate builder who does not live up to industry standards does not tend to establish unfair or deceptive solicitation of the consuming public." The Court's holding that Albertsons engaged in unfair practices is not based on any failure to comply with industry standards.

b. Immoral, Unethical, Oppressive, or Unscrupulous Practices

545. Similarly, the Court concludes that Albertsons engaged in another category of unfair practices by adopting business policies and practices that prioritized profits over safety. Those policies and practices constitute unfair acts because they were immoral, unethical, oppressive, or unscrupulous. Dispensers and distributors are given the privilege and opportunity to participate in the closed distribution system for controlled substances on the condition that they implement effective anti-diversion controls "to protect the health and safety of communities from drug diversion." Dkt. 633 ¶ 7. Yet, despite that important responsibility, Albertsons disregarded its legal obligations, instead focusing solely on its own profits, putting consumers and the public at risk. That was immoral, unethical, and unscrupulous.

546. For example, Albertsons' corporate business practices prioritized prescription volume. The more prescriptions Albertsons dispensed, the more revenue it made. Through staffing and bonus policies, Albertsons encouraged its pharmacists to dispense higher volumes of all prescriptions, including prescription opioids. Yet, at the same time, these policies discouraged its pharmacists from taking the time to adequately investigate, document, or resolve red flags or refuse to fill suspicious prescriptions. Those policies had one purpose: to grow the

[936] 9/14/26 pm TT (closing) at 8301:5-15.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

business. Albertsons implemented those policies and practices in disregard of its legal duties within the closed distribution system of controlled substances and its obligations to properly care for its customers.

2. Albertsons' Unfair Practices Occurred in Trade or Commerce

547. The Court concludes that both types of unfair practices occurred in trade or commerce. Albertsons' dispensing and distribution of prescription opioids in violation of its duties under federal and state law occurred in the sale of prescription opioids. And Albertsons' policies and practices that prioritized profits over safety also occurred in trade or commerce; those policies and practices were adopted as business practices to boost corporate sales and profits in selling their products and services.

548. For example, Albertsons focused on the value of its pharmacy customers to its earnings and how to increase prescription volume. In Albertsons' own words, its top three priorities were "$ales!, $ales!, $ales!" Its policies were driven by sales rather than compliance. Indeed, Albertsons specifically declined to implement measures to protect against diversion, such as 7-day limits on the first fill of an opioid prescription or not stocking Promethazine with codeine, or even discontinuing the use of discount cards or cash payments, because such changes would result in fewer sales. *See supra* Sections II.D.1.a.iii, II.D.1.j. Albertsons' bonus policies rewarded higher prescription volume, including controlled substance prescriptions, thereby incentivizing its pharmacists to dispense as many prescriptions as possible. Even its labor model revolved on prescription volume. *See supra* Sections II.D.1.b, II.D.1.f.

549. The Court concludes that Albertsons' self-distribution, which consisted of wholesale transactions between its distribution center and its own Washington stores, is encompassed within the broad definition of "trade" and "commerce," RCW 19.86.010(2).

550. That Albertsons' unfair practices relate to the provision of pharmacy services does not take them outside of trade or commerce. The State's CPA claim does not challenge the

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

professional conduct or competence of any pharmacist's dispensing decision; it is not the equivalent of a malpractice action. And with respect to Albertsons' distribution conduct, those wholesale transactions involved no patient at all and are therefore even further removed from the provision of professional services than Albertsons' dispensing. Instead, the challenged conduct is Albertsons' corporate business practices and policies, not the competency of professional services involving the exercise of professional judgment. The Court made the same observation in denying summary judgment: "Albertsons' repeated focus on the individual patient care is misplaced and mischaracterizes the State's claims, which have to do with business practices."[937] The trial record bears that out.

551. In any event, the Court concludes that, to the extent the State's CPA claim challenges Albertsons' pharmacy operations, the State challenges the "entrepreneurial aspects" of its pharmacy services, which are within the scope of the CPA. The State's evidence focused on Albertsons' commercial behavior: its corporate business policies and systems for promoting opioid sales, including its failure to: (1) implement proper monitoring systems or training to address red flags, (2) maintain diversion controls, (3) ensure sufficient staffing, and (4) oversee its pharmacies' compliance with controlled substance laws. The State proved that Albertsons implemented policies and procedures to generate profits by increasing the number of opioid prescriptions dispensed and distributed, and by trying to attract or maintain customers to its retail pharmacy stores, including by filling prescriptions that other pharmacies refused to fill. The State's evidence demonstrated that these were top-down corporate policies pushed out to Albertsons' pharmacists to increase business revenue and these were not policies or practices adopted by pharmacists as an exercise of their professional judgment.[938] Nor was there any

---

[937] 5/13/26 Hr'g TT at 98:11-14.

[938] In fact, the evidence showed that many of Albertsons' pharmacists were competent and conscientious, frequently raising concerns to the Compliance Department or corporate higher ups about rogue prescribers, the adverse impact of the staffing model, regarding practices such as continuing to dispense "purple drank" while other pharmacies did not, continuing to accept

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

evidence that Albertsons adopted these policies or practices to better serve the health interests of its customers.

552. Albertsons' internal communications emphasized that its pharmacy business was profit-driven and focused on gaining new pharmacy customers. For example, Albertsons calculated that its pharmacy customers, whom it referred to as "sticky," were four times more valuable than non-pharmacy customers, with the "incremental value of each new pharmacy customer" at "+$3,347/year." *See supra* FOF ¶ 298.[939] The same 2015 presentation by the Seattle Division's Director of Pharmacy Operations laid out a "Q2 Rx Gap Closure Strategy" that converted each increment of prescription growth into "Sales Upside" and "Ln 9 Profit Upside."[940] At another 2015 meeting, he told pharmacy managers from across Washington that "[i]n any given moment we have two options: to step forward into growth or to step back into safety." *See supra* FOF ¶ 299. Albertsons' DPM, Cliff Amend, sent this message to every pharmacy employee in his districts: "[t]he end goal for everything we ask is to make profit, plain and simple. . . . If the department is not profitable, your DPM is not able to advocate for pay raises or increased labor budgets. . . . We use script count as a way to speak about labor dollars and in reality, it is directly tied to sales and profits." *See supra* FOF ¶ 147.[941] Senior management tracked the effect of opioid restrictions on sales. In August 2017, under the subject line "Controlled Substance crackdown & Impact on scripts," Albertsons' Group Vice President of Pharmacy Services reported that analgesics were "the category with our largest script decline." Its Vice President of Pharmacy Compliance replied that "sales might be impacted worse than Rx volume as you see quantities being limited to 7 day supply more frequently."[942] When Walgreens

---

discount cards for opioids while other pharmacies did not, and declining to participate in King County's program for excess drug disposal.

[939] P-00900 at 0013.

[940] P-00900 at 0001, 0014.

[941] P-03895 at 0001.

[942] P-00490.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

and CVS announced that they would stop carrying Promethazine with codeine, a "[c]ommon target for robberies," and Albertsons' compliance head warned that this "will significantly increase our risk of theft," Albertsons' executives looked at how many prescriptions they were filling and decided, "[w]e aren't getting out of it." *See supra* FOF ¶ 302.[943]

553. Indeed, Albertsons' conduct described above is similar to other conduct that Washington courts have found to be entrepreneurial and properly the subject of a CPA action. *See, e.g., Quimby v. Fine*, 45 Wn. App. 175, 181, 724 P.2d 403 (1986) (entrepreneurial aspects include doctor's "promot[ion of] an operation or service to increase profits and the volume of patients"); *Michael*, 165 Wn.2d at 604 (entrepreneurial conduct includes "increas[ing] profits or the number of patients"); *Wright*, 104 Wn. App. at 484-85 (entrepreneurial conduct includes "activities that were motivated by financial gain" such as "selling diet drugs").

3. Albertsons' Conduct Affected the Public Interest

554. The Court concludes that Albertsons' unfair practices affected the public interest. By distributing and dispensing opioids in violation of the CSA and WUCSA, Albertsons undermined the public policy underlying those statutes, which includes preventing diversion. Dkt. 633 ¶¶ 7, 10. Similarly, Albertsons' unfair practices in prioritizing profits over safety likewise affect the public interest by endangering patient safety and enabling diversion. The State's evidence showed that, in its quest to maximize profits by increasing the number of prescriptions dispensed, Albertsons did not ensure that prescriptions with indicia of illegitimacy were properly reviewed or scrutinized before they were dispensed. That put patients at risk for receiving prescriptions that were not for a legitimate medical purpose and increased the likelihood that dispensed prescriptions would be diverted for non-medical uses. These unfair acts were committed in the course of Albertsons' business; they were part of a generalized course of conduct repeated across more than 200 Washington pharmacies for 16 years; and they affected

[943] P-00549 at 0001, 0003.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

patients and communities statewide. Those are indicia of public-interest impact. *See Hangman Ridge Training Stables, Inc. v. Safeco Title Ins. Co.*, 105 Wn.2d 778, 789-91, 719 P.2d 531 (1986) (to determine public interest, court looked to whether acts were committed in the course of the defendant's business, whether they were part of a pattern or generalized course of conduct, whether repeated acts were committed, whether there was a real and substantial potential for repetition, and whether many consumers were affected).

555. Albertsons contends that because the DEA and the DOH licensed it to dispense controlled substances, its dispensing was "permitted by" those regulators within RCW 19.86.170. *See* Dkt. 721, CL ¶¶ 46-51. That exemption, however, applies only to conduct "specifically and actively permitted by an agency." *Hall v. Walgreens Boots All., Inc.*, 4 Wn.3d 447, 455-56, 565 P.3d 564 (2025). The party claiming such an exemption must show that the agency "took overt affirmative action to specifically permit" the practices at issue. *Singleton v. Naegeli Reporting Corp.*, 142 Wn. App. 598, 608, 611, 175 P.3d 594 (2008) ("[t]he fact of regulation does not rise to the standard set forth in Washington constituting a CPA exemption"); *see State v. Tacoma-Pierce Cnty. Multiple Listing Serv.*, 95 Wn.2d 280, 287, 622 P.2d 1190 (1980) ("the regulatory agency must have taken some overt affirmative action indicating approval"). The Court concludes that Albertsons has failed to satisfy that standard. Albertsons identifies no action by any agency permitting it to dispense red-flagged prescriptions without resolving and documenting the red flags, to operate without effective controls against diversion, or to ship suspicious orders without investigation or reporting to the DEA.

556. The Court therefore concludes that the State has proven that Albertsons engaged in unfair practices in trade or commerce that affected the public interest such that it has violated the CPA. The Court rejects Albertsons' affirmative defenses that its conduct "conformed with" the Food, Drug, and Cosmetic Act and the CSA and with "all state and federal statutes, regulations, and industry standards," Dkt. 61, Affirmative Defenses Nos. 32, 36, that it

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

"complied at all relevant times with all applicable laws," *id.*, Affirmative Defense No. 38, and that no conduct of Albertsons was "unfair," *id.*, Affirmative Defense No. 40.

4. CPA Remedies

557. The CPA provides a range of remedies for violations, including injunctive relief, costs and fees, and civil penalties. RCW 19.86.080(1)-(2); RCW 19.86.140. These remedies together comprehensively address unfair and deceptive practices. Civil penalties deter such practices, and injunctive relief prevents such practices from continuing. Thus, this array of remedies broadly protects and benefits the public.

a. Civil Penalties

558. The CPA provides that "[e]very person who violates [the CPA] shall forfeit and pay a civil penalty of not more than $7,500 for each violation." RCW 19.86.140. While that provision mandates statutory penalties for CPA violations, the amount of the penalty and the factors to be considered in determining that penalty are left to the trial court's discretion. *See State v. Living Essentials, LLC*, 8 Wn. App. 2d 1, 36, 436 P.3d 857 (2019).

559. Prior to July 25, 2021, the maximum civil penalty authorized was $2,000 per violation, as Albertsons acknowledges. Dkt. 721, CL ¶ 94; Dkt. 720 at 22. The maximum penalty was increased to $7,500 per violation by Laws of 2021, ch. 228, § 2. Because each per-violation penalty the Court assesses is less than the pre-amendment maximum, the Court need not decide whether penalties between $2,000 and $7,500 per violation could be applied to violations before July 25, 2021.

560. No statute of limitations applies to claims for civil penalties brought by the Attorney General under the CPA: "except as provided in RCW 4.16.310, there shall be no limitation to actions brought in the name or for the benefit of the state, and no claim of right predicated upon the lapse of time shall ever be asserted against the state, including actions asserting a claim for civil penalties under RCW 19.86.140." RCW 4.16.160. This Court so held

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

in striking the statute-of-limitations defense that Albertsons attempted to raise for the first time in its trial brief. The Court held that "the State's request for civil penalties carries no limitation period" because the two-year period in RCW 4.16.100(2) "applies only when the State enforces penal statutes," and "[t]he CPA, however, is a remedial statute, not a penal statute." Dkt. 760 (Order Granting Pl. State of Washington's Mot. to Strike Defs.' Unpleaded Statute of Limitations Defense) ¶¶ 1, 3. In any event, this Court also concluded that Albertsons waived any statute of limitations defense by failing to raise it until its trial brief. *Id.* ¶ 1.

561. For purposes of assessing civil penalties in this case, the Court will use the time frame 2006 to 2022, except for penalties related to Albertsons' self-distribution, which occurred only from 2006 to 2008, and 2013 to 2016.

i. Number of Violations

562. In interpreting the CPA, the statute instructs Washington courts to "be guided by final decisions of the federal courts and final orders of the federal trade commission interpreting the various federal statutes dealing with the same or similar matters." RCW 19.86.920. That includes interpretation of what constitutes a violation under the CPA.

563. Under federal case law calculating penalties under the FTC Act—case law that is supposed to guide this Court in interpreting the CPA, RCW 19.86.920—a violation is defined based on the unfair or deceptive conduct in each case. In general, each time a representation is made or repeated, or each time an unfair act or practice occurs or recurs, that constitutes a separate violation. *See, e.g., United States v. Reader's Digest Ass'n, Inc.*, 662 F.2d 955, 965-66 (3d Cir. 1981) (holding that each individual item included as part of a mass mailing constitutes a separate violation); *United States v. J. B. Williams Co.*, 498 F.2d 414, 435 (2d Cir. 1974) (holding that "each separate broadcast of [a] commercial was a separate violation" rather than each day the commercial aired); *United States v. Floersheim*, No. CV 74-484-RF, 1980 WL 1852, at *9 (C.D. Cal. May 1, 1980) (holding that "[e]ach individual form [containing the

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

misrepresentations] constitutes a separate violation"); *accord South Carolina ex rel. Wilson v. Ortho-McNeil-Janssen Pharmaceuticals, Inc.*, 414 S.C. 33, 79, 88, 91, 777 S.E.2d 176, 200, 205, 207 (2015) (recognizing that the South Carolina Unfair Trade Practices Act "contemplates that an unlawful method, act, or practice may result in multiple statutory violations" and affirming, as modified, penalties assessed for each sample box, each Dear Doctor Letter, and each follow-up sales call).

564. Washington courts have similarly counted each instance of an unfair or deceptive practice as a violation of the CPA. *See, e.g., Living Essentials, LLC*, 8 Wn. App. 2d at 34-35 (each time a deceptive ad was aired in Washington within the limitations period was a violation and each deceptively packaged bottle sold in Washington was a violation); *State v. Ralph Williams*, 87 Wn.2d at 316-17 ("We decline to follow the one-violation-per-consumer rule."); *State v. LA Investors, LLC*, 2 Wn. App. 2d 524, 545-46, 410 P.3d 1183 (2018) (holding that "[e]ach deceptive act is a separate violation"); *State v. Mandatory Poster Agency, Inc.*, 199 Wn. App. 506, 525-26, 398 P.3d 1271 (2017) ("our Supreme Court recognized that the CPA 'vests the trial court with the power to assess a penalty for each violation'").

565. With respect to Albertsons' unfair practices based on its distribution conduct in violation of the CSA and WUCSA, the Court concludes that each order line that Albertsons' own threshold system identified as exceeding the ordering store's average, and that Albertsons nevertheless shipped to a Washington store without investigation and without a report to the DEA, is a separate violation of the CPA. The Court includes in that count any order for which there is a note that a call was placed to the pharmacy to verify the order, because the Court finds that those calls were not intended to, and did not, investigate whether the orders were proper.[944] Albertsons' Above Threshold Report for its Washington pharmacies records 11,953 such lines

[944] 8/13/26 pm TT (Provenzano WA 30(b)(6) depo (9/9/25)) at 4771:5-13; 8/13/26 pm TT (Beck NM FACT depo (2/18/22)) at 4824:1-4, 4839:6-4840:6, 4841:18-21, 4842:1-22, 4849:4-10, 4850:19-4851:19, 4853:6-17.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

between 2013 and 2016: 11,732 flagged because the "ORDER QTY > 20% OF STORE AVG" and 221 flagged because the "ORDER QTY > STORE AVG + SOM." *See supra* FOF ¶ 316. Albertsons also distributed opioids to its Washington stores from 2006 to 2008 with *no* system for identifying suspicious orders, and each of those shipments was likewise made in violation of its distribution duties. However, because the record does not permit a reliable count of those orders, the Court does not assess any penalty for those violations.

566. With respect to Albertsons' unfair practices based on its dispensing conduct in violation of the CSA and WUCSA, the Court concludes that each dispensing of an opioid prescription without resolving red flags and documenting resolution is a separate violation of the CPA. *See infra* COL ¶ 566. Dr. McCann applied Mr. Catizone's fourteen red-flag definitions to Albertsons' own dispensing data and identified 6,541,993 unique opioid prescriptions—61.6% of the 10,615,250 opioid prescriptions Albertsons dispensed in Washington from 2006 through 2022—that bore at least one red flag, with 96% of those, or 6,280,313 having no documented resolution. *See supra* FOF ¶ 332. The State urges a method for calculating penalties that would involve penalizing each flag (11,416,788 red flags with some adjustments) and imposing differing penalties depending on the seriousness of the red flag. The Court does not believe such a granular approach is warranted.

567. The Court does not assess a separate penalty for the corporate policies and practices that prioritized profits over patient safety because those policies are the means by which the dispensing and distribution violations were committed. Instead, the Court considers such conduct in determining the appropriate penalty for each violation.

568. Consistent with the State's evidence at trial, the Court concludes that Albertsons committed 11,953 violations of the CPA based upon its unfair distribution practices and 6,280,313 violations based upon its unfair dispensing practices, penalized according to the schedule set forth below. *See infra* COL ¶¶ 581-82.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

ii. Factors to Consider for Determining Penalty Amount

569. Courts in Washington have recognized the five factors discussed in *Reader's Digest* as helpful considerations for determining the appropriate penalty for CPA violations. *See, e.g., Mandatory Poster Agency.*, 199 Wn. App. at 526. Those five factors are: (1) whether defendants acted in good faith; (2) injury to the public, (3) defendants' ability to pay, (4) the desire to eliminate any benefits derived by defendants from their violations, and (5) the necessity of vindicating the authority of the relevant law enforcement agency. *Id.* The factors are guides, not elements. *Id.*

570. Each of these factors supports a significant penalty award here.

571. **Good Faith**. The Court finds that Albertsons did not act in good faith. Albertsons knew its dispensing and distribution obligations under the CSA and WUCSA, but ignored those duties. For example, the DEA's investigation of Safeway's theft-and-loss reporting ended in a 2017 agreement under which Safeway surrendered one pharmacy's DEA registration, accepted a suspension of its North Bend pharmacy's registration, and paid a $3 million civil penalty.[945] Albertsons' Rule 30(b)(6) designee conceded that "there were potentially some lax pharmacy controls, more on the procurement side of the business specifically."[946] The DEA also mandated the creation of Albertsons' controlled-substance analytics team,[947] and the DOH cited Albertsons stores for deficient "facility staffing." *See supra* FOF ¶¶ 163-64. Albertsons' response to regulatory scrutiny was to prepare for it rather than to comply with it. For example, its "Pharmacy Operations DEA Prep Checklist for DPMs" instructed district pharmacy managers that "[u]nder no circumstances should the agents be left alone to have access to anything on their own" and to

[945] P-00916 at 0004-0005.
[946] 8/3/26 am TT (Green WA 30(b)(6) depo (8/13/25)) at 2938:4-9.
[947] 7/15/26 am TT (Aitken WA 30(b)(6) depo (8/20/25)) at 545:24-546:19.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

"[c]oach pharmacy team that questions should be answered in yes/no type fashion,"[948] and its red-flag training and controlled-substance dispensing reviews were adopted reactively, in anticipation of DEA enforcement, rather than out of concern for patient safety. Albertsons' own policies identified the very red flags Mr. Catizone applied—distance, multiple prescribers, drug cocktails, high dosages, pattern prescribing, early refills and cash—yet Albertsons did not enforce them. These are just a few examples that demonstrate Albertsons' lack of good faith. In addition, Albertsons' policies and practices that encouraged increased prescription volume and discouraged the due diligence required by law also show a lack of good faith.

572. **Injury to the Public.** This Court has already concluded that Albertsons' distribution and dispensing conduct was a substantial factor in causing the opioid epidemic in Washington, which has severely injured the public. The unfair practices that are based on this same conduct, therefore, have likewise resulted in injury to the public. Albertsons' policies prioritizing profits over patient safety have also undoubtedly resulted in prescriptions being dispensed that should not have, injuring patients and contributing to diversion.

573. **Ability to Pay.** Albertsons has the ability to pay the CPA penalties that the Court concludes are warranted here. Under this factor, it is important to consider what penalties are necessary for Albertsons to fully appreciate the wrongfulness of its conduct and to deter it from future, similar violations. To achieve that goal, the penalty should consider the wrongdoer's financial ability to pay. The State does not bear the burden of proving Albertsons' ability to pay; instead, this factor evaluates only whether the penalty would exceed the defendant's means. *See LA Investors*, 2 Wn. App. 2d at 546 (penalties set "recognizing that there was no evidence of [defendant's] inability to pay"). If a penalty is more than a defendant can pay, justice would not

[948] P-00492 at 0004; 7/14/26 am TT (Covaci WA FACT depo (9/9/25)) at 282:16-23, 283:25-284:9, 285:6-22, 285:23-286:2 (discussing P-00492 at 0004), 297:17-24, 308:6-11 (discussing P-00467).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

be served. Similarly, if a penalty is so small that it can be written off as a mere cost of doing business, then consumers would not be adequately protected.

574. Albertsons is a large corporation with very substantial resources. For its fiscal year ended February 28, 2026, Albertsons reported net sales and other revenue of $83.2 billion and Adjusted EBITDA of $3.9 billion, a figure calculated without the $773.8 million charge it recorded for its settlement framework with other states (to be spread out and paid over nine years), and it reported approximately $3.56 billion of available borrowing capacity under its asset-based credit facility.[949] In the same fiscal year it spent approximately $1.49 billion repurchasing its own stock.[950] Also, in January 2023, Albertsons paid its shareholders a special cash dividend of $6.85 per share, totaling $3,916.9 million, funded in part with $1.4 billion borrowed under its asset-based credit facility.[951]

575. Albertsons' President of Pharmacy testified that Albertsons' Pharmacy Division lost money in each year from 2017 through 2022, apart from the Covid-vaccination years 2021 and 2022, and that pharmacy is "margin diluted" relative to the total store; but he agreed that pharmacy customers visit the store "three to four times as much" and buy groceries when they do.[952] He does not know whether Albertsons' pharmacies made money on opioid prescriptions between 2017 and 2022 "[b]ecause we don't track it that way."[953] He testified that, as far as he knew, the statements in Albertsons' fiscal 2025 Form 10-K were accurate when filed.[954] The 10-K states that as of February 28, 2026 Albertsons "had approximately $8.6 billion of debt outstanding" and "would have been able to borrow an additional $3.6 billion";[955] that capital

---

[949] P-04275 (Albertsons Companies, Inc. Form 10-K for the fiscal year ended Feb. 28, 2026) at 0035, 0037-0039, 0042, 0092; 9/8/26 pm TT (DalPonte) at 8073:5-8074:14, 8092:23-24.
[950] P-04275 at 0043.
[951] P-04272 at 0049, 0083.
[952] 9/8/26 pm TT (DalPonte) at 8065:24-8066:6, 8070:16-23, 8071:19-8072:15.
[953] 9/8/26 pm TT (DalPonte) at 8070:10-15.
[954] 9/8/26 pm TT (DalPonte) at 8092:23-24, 8095:18-19.
[955] 9/8/26 pm TT (DalPonte) at 8093:5-11, 8093:24-8094:4; P-04275 at 0021.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

returns to shareholders in fiscal 2025 included $322.7 million of dividends and $1,492.5 million for the repurchase of common stock, that the quarterly dividend was increased on April 14, 2026, and that the remaining repurchase authorization was increased to $2.0 billion;[956] and that Albertsons estimates its liquidity needs over the next twelve months "to be in the range of $6.0 billion to $6.5 billion" and believes it has "significant sources of cash" to meet them.[957]

576. Significantly, in its 10-K, Albertsons' management represented that any resulting liability from claims such as the State's will not have a material adverse effect: "The Company is subject from time to time to various claims and lawsuits, including . . . claims related to the sale of drug or pharmacy products, such as opioids . . . arising in or outside of the ordinary course of business. The Company is also subject, from time to time, to government investigations, subpoenas, audits, reviews, claims enforcement actions and litigation. . . . Some of these claims or suits purport or may be determined to be class actions and/or seek substantial damages. It is the opinion of the Company's management that although the amount of liability with respect to certain of the matters described herein cannot be ascertained at this time, *any resulting liability of these and other matters, including any punitive damages, will not have a material adverse effect on the Company's business or overall financial condition.*"[958]

577. Albertsons argues that, in considering the ability to pay, the Court should look to its pharmacy profits and profitability and not to its overall condition and profitability, but it was undisputed, and Albertsons' own witnesses confirmed that pharmacy customers are "stickier" and spend substantially more on groceries than non-pharmacy customers. It is this more appropriate to consider Albertsons' overall profits, not just the pharmacy profits.

578. The Court concludes, therefore, that Albertsons has the ability to pay the penalties this Court is assessing against it.

---

[956] 9/8/26 pm TT (DalPonte) at 8094:12-8095:7; P-04275 at 0033.
[957] 9/8/26 pm TT (DalPonte) at 8098:11-21; P-04275 at 0043.
[958] P-04275 at 0089 (emphasis added).

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

579. **Desire to Eliminate the Benefit of the Violations.** The desire to eliminate the benefits Albertsons derived from its violations also counsels in favor of a substantial penalty. A penalty that leaves a defendant with the proceeds of its violations invites their repetition. *See Living Essentials*, 8 Wn. App. 2d at 36 ("[N]o one should be permitted to profit from unfair and deceptive conduct."); *State v. Comcast Cable Commc'ns Mgmt., LLC*, 16 Wn. App. 2d 664, 687, 482 P.3d 925 (2021) (penalties that require the defendant to "disgorge its unlawful gains in the form of civil penalties"); *accord U.S. Dep't of Justice v. Daniel Chapter One*, 89 F. Supp. 3d 132, 152 (D.D.C. 2015) (to be an effective deterrent, a penalty "must be large enough to be more than just an acceptable cost of doing business" and "should be higher than the amount the defendants benefitted and the amount of any consumer redress").

580. The Court's penalties are calculated, in part, to exceed the revenue Albertsons received from the prescriptions it dispensed with unresolved red flags, thereby depriving it of the benefit of its violations. Albertsons' own dispensing data memorialize, for each prescription, the amount the patient paid and the amount due from third-party payors at the time of sale. For the red-flagged opioid prescriptions Albertsons dispensed in Washington from 2006 through 2022, those amounts total $308,360,088. Applying the 96% rate to this figure, Albertsons took in at least $296,025,684 on the red-flagged opioid prescriptions it dispensed without documented due diligence. *See supra* FOF ¶ 342. However, as discussed *supra,* the Court recognizes that, while each red-flagged prescription improperly dispensed represents a violation, a substantial portion of those prescriptions likely were legitimate. In addition, the Court considers the abatement remedy that is already being ordered.

581. **Vindicating the Authority of Law Enforcement.** Finally, the necessity of vindicating the government's authority also warrants substantial penalties. Albertsons demonstrated not only callous disregard for the public in Washington, but engaged in persistent efforts to flout and avoid its legal obligations.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

582. Based on the Court's consideration of these factors, the Court concludes that the following penalties are appropriate per violation:

(1) For each order line that Albertsons' threshold system flagged and Albertsons shipped without adequate investigation between 2013 and 2016: $2,000, the statutory maximum penalty per violation at that time. The Court concludes that, when a distributor identifies an order as exceeding its own threshold for a suspicious order yet ships it anyway, that is a serious violation in bad faith that risks substantial injury to the public, warranting the statutory maximum penalty. Moreover, the Court concludes that the maximum penalty is likewise appropriate because Albertsons never reported even a single order to the DEA or stopped shipment of a single order, including the orders identified as being above threshold, demonstrating a complete abdication of its duties as a distributor.

(2) For each red-flagged opioid prescription dispensed without adequate documentation of its resolution, the Court assigns a per-violation penalty of $50.

iii. Number of Violations and Penalty Amount

583. Accordingly, the Court finds the appropriate penalties to be $23,906,000 for 11,953 violations with regard to Albertsons' unfair distribution practices, and $314,015,650 for its unfair dispensing practices, for a total of $337,921,650.

584. The Court finds it appropriate to reduce the CPA penalty to $100 million ***provided that the abatement of $800 million stands.*** If, for some reason, the abatement is reduced or eliminated (for example, on appeal), then the CPA penalty shall be $337,921,650. Therefore, the Court orders Albertsons to pay civil penalties in the total amount of $100 million, or $337,921,650 in the event that the abatement remedy does not stand, which is consistent with

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

the CPA goal of eliminating the benefit to Albertsons of the violations. Albertsons Companies, Inc., which owed the distribution duties, is solely responsible for the $23,906,000 assessed for unfair distribution practices. *See* Dkt. 633 ¶¶ 5-6; FOF ¶ 12(d), (e).

585. Although the State asked this Court to exercise its equitable powers to award a separate amount for restitution, this Court declines to do so. Instead, this Court has considered Albertsons' unlawful gains in calculating the appropriate penalties, as explained above.

b. Injunctive Relief

586. The Court concludes that injunctive relief is necessary to ensure that Albertsons' misconduct, described herein, does not continue. The CPA authorizes the Attorney General to bring an action "to restrain and prevent the doing of any act herein prohibited or declared to be unlawful," RCW 19.86.080(1), and an injunction under that provision requires "a cognizable danger of recurrent violation," not a showing of irreparable harm. *Ralph Williams*, 87 Wn.2d at 313. "Cessation of illegal conduct does not deprive a tribunal of the power to hear and determine the case," and courts "place a heavier burden on parties alleging abandonment of practices where the practices are discontinued subsequent to institution of the suit" and "must beware of efforts to defeat injunctive relief by protestations of reform." *Id.* at 312-13.

587. Albertsons has not carried that burden. It presented no evidence that several of the practices found above have been abandoned, and the record shows the opposite. For example, Albertsons still accepts discount cards and cash for controlled substances and has never integrated a red-flag checklist into its dispensing software or done any monitoring to ensure that documentation of red flags is occurring

588. Accordingly, the Court hereby orders that Albertsons and its successors, assigns, employees, contractors, representatives, officers, directors, principals, owners, and all others who are acting or have acted in concert or active participation with Albertsons are permanently enjoined and ordered to comply with the following requirements:

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

a. Albertsons shall not dispense a covered prescription in Washington that bears one or more red flags of possible diversion unless a pharmacist has resolved each red flag before dispensing and has documented, in a record maintained with the prescription, the red flag identified and the basis on which it was resolved. For this purpose, a red flag includes each of the fourteen indicia identified in Section II.E.1 and any other circumstance recognized in Albertsons' own controlled-substance dispensing policies as a red flag. A "covered prescription" is a prescription for an opioid; a prescription for a benzodiazepine dispensed to a patient who has filled an opioid prescription within the previous 30 days; or a prescription for a muscle relaxer dispensed to a patient who has opioid and benzodiazepine prescriptions with overlapping days' supply.

b. Albertsons shall provide its Washington pharmacists with the means to identify red flags at the point of dispensing, including (a) a red-flag review integrated into its pharmacy dispensing system that identifies, for each controlled-substance prescription presented, the indicia listed in Section II.E.1 that are ascertainable from the patient's profile and the prescription itself; (b) a requirement that the pharmacist review the Washington PMP record for the patient before dispensing any controlled-substance prescription; and (c) staffing sufficient to permit its pharmacists to conduct and document that review.

c. Albertsons shall maintain a compliance program that monitors controlled substance dispensing at each of its Washington pharmacies, including periodic controlled substance dispensing reviews at every Washington store, reporting of the results of those reviews and of any internal or mock audit to

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

its pharmacy compliance department within thirty days, and corrective action where a review shows red flags dispensed without documented resolution.

d. If Albertsons distributes controlled substances to its Washington pharmacies, it shall design and operate a system to identify orders of unusual size, orders deviating substantially from a normal pattern, and orders of unusual frequency; shall not ship any such order until it has been investigated and found not to be suspicious; and shall report each suspicious order to the DEA.

e. For a period of five years from the entry of this Judgment, Albertsons shall certify to the Attorney General annually, under oath of an officer responsible for pharmacy compliance, that it has complied with the foregoing paragraphs, and shall make available to the Attorney General on request the dispensing reviews, audit reports and documentation described above for any Washington pharmacy. The Court retains jurisdiction to enforce this injunction.

c. Attorneys' Fees

589. The CPA provides that "the prevailing party may, in the discretion of the court, recover the costs of said action including a reasonable attorney's fee." RCW 19.86.080(1). A plaintiff becomes a "prevailing party" for this purpose "if the plaintiff has succeeded on any significant issue in litigation which achieved some of the benefit the parties sought in bringing suit." *Living Essentials*, 8 Wn. App. 2d at 38.

590. In addition, "[c]entral to the calculation of an attorney fees award is the underlying purpose of the statute authorizing the attorney fees." *Id.* Applying that principle here, "[a]warding the State its fees and costs after a CPA action will encourage an active role in the enforcement of the CPA, places the substantial costs of these proceedings on the violators of the

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

act, and will not drain the State's public funds." *Id.* at 38-39 (quoting *Ralph Williams*, 87 Wn.2d at 314-15).

591. The Court finds that the State is the prevailing party in this matter and Albertsons shall pay the State's costs and fees incurred. The State prevailed on the significant issues in this case—liability under the CPA and under the law of public nuisance—and "the material alteration of the legal relationship of the parties" that a fee award requires is plain. *Living Essentials*, 8 Wn. App. 2d at 38-39. The State shall provide the Court and Albertsons its petition for costs and fees within twenty-one (21) days of the entry of these findings and conclusions.

IV. CONCLUSION

For the foregoing reasons, the Court finds in favor of the State of Washington and against Albertsons on the State's claims for public nuisance and for violation of the Consumer Protection Act, and ORDERS as follows: (1) Albertsons created and maintained a public nuisance under RCW 7.48.120 and must abate it by funding an Abatement Plan in the amount of $800 million, to be paid into a Court-supervised trust as set forth above; (2) Albertsons violated the Consumer Protection Act, and shall pay civil penalties under RCW 19.86.140 in the total amount of $100 million ($337,921,650 if the abatement order does not stand); (3) Albertsons and those acting in concert with it are permanently enjoined as set forth above; and (4) the State, as the prevailing party, shall recover its costs and reasonable attorneys' fees under RCW 19.86.080(1).

The Court enters final judgment for Plaintiff and against Defendants Albertsons Companies, Inc. and Safeway, Inc. Defendants' responsibility to make the payments ordered herein is joint and several, except that Albertsons Companies, Inc. alone is responsible for the $23,906,000 in civil penalties assessed for unfair distribution practices.

To the extent any argument or objection set forth by Defendants in any motion, filing or pleading is not specifically addressed by the Court's Findings of Fact and Conclusions of Law, such argument and/or objection made by Defendants is hereby denied and overruled.

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

The Court retains jurisdiction to enforce and implement this Judgment.

The Court will enter such further orders pertaining to the implementation of the Abatement Plan in due course as necessary.

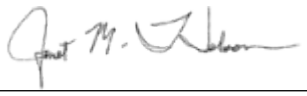
DATED this 5th day of November, 2026.

JUDGE JANET M. HELSON

JUDGE JANET M. HELSON
516 Third Ave., Room C-203
Seattle, WA 98104
Phone (206) 477-1367
helson.court@kingcounty.gov

King County Superior Court
Judicial Electronic Signature Page

Case Number:	22-2-20910-1 SEA
Case Title:	STATE OF WASHINGTON VS RITE AID CORP ET AL
Document Title:	Findings of Fact and Conclusions of Law
Date Signed:	11/05/2026



Judge: Janet Helson

Key/ID Number:	*430362874*
Page Count:	This document contains 218 page(s) plus this signature page.