

DEPARTMENT OF COMMERCE  
Heber M. Wells Building, 2<sup>ND</sup> Floor  
160 EAST 300 SOUTH  
SALT LAKE CITY, UTAH 84114

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BEFORE THE DIVISION OF CONSUMER PROTECTION  
OF THE DEPARTMENT OF COMMERCE  
OF THE STATE OF UTAH

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IN THE MATTER OF:

**PURDUE PHARMA, L.P.**, a Delaware limited partnership; **PURDUE PHARMA, INC.**, a New York corporation; **THE PURDUE FREDERICK COMPANY**, a Delaware corporation; **RICHARD SACKLER, M.D.**, individually and as an owner, officer, director, member, principal, manager and/or key employee of the above named entities; and **KATHE SACKLER, M.D.**, individually and as an owner, officer, director, member, principal, manager and/or key employee of the above named entities,

Respondents.

**ORDER GRANTING MOTION FOR  
LEAVE TO FILE REDACTED NOTICE  
OF AGENCY ACTION**

Case No. **CP-2019-005**

DCP Case No. 107102

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On Friday, March 8, 2019, the Division of Consumer Protection (Division) filed a Motion for Leave to File Redacted Notice of Agency Action (Motion). The Division asserts that counsel for Purdue does not object to the Motion, although no response from counsel for the other defendants was received.<sup>1</sup> Further, the Division asserted it is bound to maintain confidentiality of certain information obtained in connection with litigation in an Ohio federal court. The Division attached a copy of the protective order in that case (MDL Protective Order), and the Division's Acknowledgement and Agreement to be Bound by Protective Order, as exhibits to the Motion.

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<sup>1</sup>It is assumed the Division used "Purdue" as a catch-all for both defendants with Purdue in their name, but it is irrelevant to the resolution of the Motion.

The MDL Protective Order, by which the Division appears to be bound, protects confidential and highly confidential material from public disclosure if it is designated so by the producing party in that litigation. (MDL Protective Order at ¶¶ 33-34.) The protective order also contains provisions allowing use of that information in another action in which the producing party is a defendant. (Id. at ¶¶ 33i, 34j.)

A review of the MDL Protective Order's definitions of confidential information and highly confidential information reveals the categories of information to be protected are categories generally protected by Utah's Government Records Access and Management Act (GRAMA). (Utah Code Title 63G, Chapter 2.) Whether the information is protected by other statute, medical information, personnel information, commercially sensitive information, or another of the protective order's covered categories, it appears the information also qualifies for protection under GRAMA as a private or protected record. (U.C.A §§63G-2-302, -305.)

Although not all defendants have responded to the Motion, the interest the Motion seeks to protect belongs to the defendants and other individuals not a party to this matter. Given the administrative process's relatively brief time frames, it is in the interest of all parties to resolve the Motion quickly. Protecting information received under the MDL Protective Order from public disclosure is appropriate, so long as the defendants and the Presiding Officers have access to the unredacted complaint and materials, sufficient to adjudicate the matter. There appears to be no prejudice from protecting the information that could not later be remedied with public disclosure, if it is warranted. Accordingly, for good cause appearing, it is:

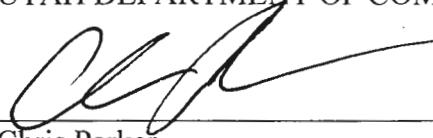
HEREBY ORDERED that the Division's Motion is granted. It may publicly file the Notice of Agency Action with the appropriate redacted version of the Administrative Citation.<sup>2</sup>

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<sup>2</sup> It appears the Division intends to file what it labels as Redacted Citation 2 – Public, which reveals more information than the citation originally filed in this matter. The Presiding Officer makes no finding about which, if

DATED March 11, 2019.

UTAH DEPARTMENT OF COMMERCE



Chris Parker

Acting Director and Presiding Officer, Division of  
Consumer Protection

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any, of the two appended versions of redacted citations is appropriate for filing. The Division and other parties are best-positioned to confer about and assess the appropriate level of redaction. Any person aggrieved by that assessment may request different treatment. However, the Presiding Officer notes the obvious: unredacted information publicly filed becomes difficult to later protect.

CERTIFICATE OF SERVICE

I hereby certify that I have the \_\_\_ day of March, 2019, served this ORDER GRANTING MOTION FOR LEAVE TO FILE REDACTED NOTICE OF AGENCY ACTION on the parties of record in this proceeding set forth below by mail and email to:

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/s/

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Erika Tedder, Paralegal