



**IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA**  
**IN RE: OPIOID LITIGATION** **Civil Action No. 21-C-9000 PHARM**

**THIS DOCUMENT APPLIES TO PHARMACY CASES:**

**ORDER ON THE PRODUCTION OF ELECTRONIC  
NOTES FIELDS AND HARD COPY PRESCRIPTIONS**

This matter comes before the Commissioner as the Parties are seeking to set deadlines for the Defendants to produce Electronic Notes Fields and Hard Copy Prescriptions<sup>1</sup> and for the supplementation of expert reports based upon those materials.

The Parties have undergone an exchange of information whereby 400 Flagged Opioid Prescriptions were randomly selected for a random selection of stores. The parties have stipulated that this sample size and store selection is sufficient to make statistical inferences within a reasonable margin of error to the larger population of Flagged Opioid Prescriptions. The State has also identified Associated Prescriptions. The parties have stipulated that Defendants do not need to produce Electronic Notes Fields and Hard Copy Prescriptions for Associated Prescriptions, but if a defendant decides not to produce these materials for Associated Prescriptions, then that defendant may not rely on such unproduced materials at trial.

The Discovery Commissioner conducted a hearing on July 29, 2022, where arguments were heard from the State and Defendants regarding the timing of these productions and deadlines for the supplementation of expert reports. The Defendants asserted they would make rolling productions of the Electronic Notes Fields and Hard Copy Prescriptions. Having considered the arguments, the following deadlines are established:

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<sup>1</sup> Hard copy prescription production will include the front of prescriptions and the back, if there is any writing or notes reflected thereon. If the backs of prescriptions are blank, they need not be copied.

- Deadline for Defendants to Produce Electronic Notes Fields and Hard Copy Prescriptions for the 400 Flagged Opioid Prescriptions and Associated Prescriptions where Applicable: **August 31, 2021**
- Deadline for the State to Supplement Reports (“Supplemental Reports”) based upon the receipt of Produce Electronic Notes Fields and Hard Copy Prescriptions: **September 12, 2022**
- Deadline for Defendants to Serve Reports responsive to the State’s Supplemental Reports: **September 24, 2024.**
- Deadline for Depositions of Experts associated with these reports: **September 30, 2022.**

The Discovery Commissioner encourages the Parties to work together to accelerate this timeline where feasible. The Parties have agreed that upon **all Defendants** certifying substantial completion of the Electronic Notes Fields and Hard Copy Prescriptions, the State’s twelve-day deadline to produce its Supplemental Reports will begin to run. All other deadlines will similarly move earlier by the same number of days. Defendants will provide at least a three-day notice to the State prior to certifying substantial completion.

**IT IS SO ORDERED.**

A copy of this Order has this day been electronically served on all counsel of record via File & Serve*Xpress*.

**ENTERED:** August 19, 2022.

/s/ Christopher C. Wilkes  
Discovery Commissioner