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Eastern Kentucky University

Purdue Pharma: Appalachia's Worst Nightmare

Honors Thesis

Submitted

in Partial Fulfillment

of the

Requirements of HON 420

Fall 2023

By

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Purdue Pharma: Appalachia's Worst Nightmare

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Abstract

This thesis describes the legal implications of Purdue Pharma's vital role that implicated them in the opioid crisis after their release of the renowned drug, OxyContin. Purdue Pharma released the infamous drug in 1995 and the world of drugs and addiction has never been the same. Thousands of oxycontin-related deaths, pharmacies and medical professionals found liable, and countless lawsuits against the powerful company. This research expands on these lawsuits, the implications of these against Purdue Pharma, and the improvements made in the pharmaceutical company to prevent a disaster such as the opioid crisis from repeating itself.

Keywords and phrases: Oxycontin, Purdue Pharma, opioid crisis, municipal litigation, honors thesis, Appalachia

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Introduction

The opioid epidemic is well-known to most people around the world and is regarded as one of the deadliest epidemics in human history. Opioids have been present since the 1860s, to treat wounded soldiers in battle. They originally used morphine but switched to opioids to stop their pain faster. Although they were healed of their pain, many soldiers soon became addicted and used opioids even after the war. From then on, opioids stayed pretty low on the radar, and public health was not the world's first priority. However, in 1995, that all changed when OxyContin was brought to the world's attention by Purdue Pharma. OxyContin, oxycodone controlled release, was a new phenomenon that allowed dosing every 12 hours, unlike other formulas that only allowed dosing every 4 to 6 hours (Food and Drug Administration [FDA], 2023). This was approved by the FDA and marketed aggressively throughout the United States, specifically Delaware and West Virginia. These locations were “ground-zero” and the initial test sites to determine if OxyContin would be successful nation-wide. This would later prove to be detrimental, specifically in West Virginia due to its economic standing and vulnerable location in Appalachia.

OxyContin's effects were at first not known and was regarded as a “miracle drug”. However, in the early 2000s, overdose reports as well as deaths began to increase exponentially (FDA, 2023). The FDA took notice of this and changed the label on OxyContin to strengthen warnings about the drug's potential for abuse. However, Purdue Pharma did not take heed to this warning and continued to misrepresent and falsely advertise OxyContin. As doctors would express their concerns about the drug, Purdue Pharma pharmaceutical reps would continue to reassure doctors that everything was working perfectly. If physicians would express concern about patients' pain coming back, or the medicine wearing before the 12 hours, the

representatives would encourage “upping the dosage” to 25 or even 50mg, when the patient was originally only prescribed 10mg. This is unusual and not regular practice for pain medication, and some physicians began to catch on. However, Purdue continued and “...trained its sales representatives to carry the message that the risk of addiction was ‘less than one percent’” (Van Zee, 2009). They continued these tactics until 2003 when the FDA issued a Warning Letter to Purdue Pharma for misleading advertisements (FDA, 2023). In the next decade or so, OxyContin received multiple lawsuits and litigation against their company; however, the damage had already been done. Nearly half a million Americans have died due to opioid overdoses after the release of OxyContin (Chow, 2020). Additionally, these deaths can be attributed to the increase in usage of heroin and fentanyl, two drugs that are commonly used after the use of opioids because most users do not have access to the prescription drugs anymore and are looking for a better high. Opioids and the opioid epidemic are still a pressing problem in many Appalachian areas, specifically West Virginia which “...has suffered the highest opioid overdoses in 2015 in the United States (Merino et al., 2019). Purdue Pharma is responsible for exacerbating the effects of the opioid crisis, and its strategic release in rural Appalachian areas, specifically West Virginia. Their destructive tactics were focused on increasing profits, and they had little to no concern for the general public welfare.

Appalachia is stereotyped as a rural part of America that is usually forgotten about politically and economically. They are ranked lower in education, health, however, ranked higher in opioid overdoses and crime. Appalachia became an easy target for Purdue because of these public perceptions and stereotypes associated with the region. Appalachians are ridiculed daily through a concept known as microaggressions. These microaggressions allow people to stereotype and almost bully this population of people with no consequences because, “Despite

stigma and stereotypes of Appalachia being clearly linked to historical and ongoing poverty and oppression, Appalachians are hardly recognized as an oppressed and marginalized group” (Boggs, 2023). Therefore, this marginalization allowed large corporations such as Purdue Pharma to intervene and introduce a deadly drug into a vulnerable population with little to no consequences.

For the purpose of this research, I will be focusing on specific municipalities and lawsuits that they have brought upon Purdue Pharma and the legal implications of these liabilities. It is not common for cities to be viewed as “persons” or litigated against in general, however, when it does happen, precedent is usually set and it is litigated to the highest degree. The Supreme Court case *Monell v. The Department of Social Services* overturned the previous case, *Monroe v. Pape* identifying cities as “persons” that can be sued in a 42 U.S. Code § 1983 federal lawsuit. The court held that cities can be liable as persons in a federal lawsuit and therefore, opened up a new realm of legal possibilities for cities to be sued. These municipality lawsuits that I will be focusing on fall under these types of lawsuits. Purdue Pharma was the instigator for these suits and one of the reasons West Virginia and other rural Appalachian towns were destroyed due to the opioid epidemic, however, cities were also found to be at fault through a term labeled, “deliberate indifference”. The court case that established this term was *City of Canton v. Harris* (1989). The court held that municipalities may be liable for inadequate training of employees, but only when the, “‘failure to train amounts to deliberate indifference’ to the constitutional rights of the people with whom the employees will interact. A municipality is then only liable when the failure to train is a deliberate choice on the part of the city” (*City of Canton v. Harris*, 1989). This does not directly apply to Purdue Pharma because they are not a city or a municipality, however, this applies to the aftermath. When Purdue Pharma settled and agreed to

plead guilty in federal court in 2020, that money needed to be allocated and distributed somehow. These municipalities are legally responsible for verifying these funds and making sure they are allocated correctly. If not, they can be sued for deliberate indifference for not training their employees properly and taking care of the crisis correctly. If deliberate indifference is not found, they can also be sued in state court, which this research will also focus on, and they can be sued for negligence if it doesn't violate a constitutional right. Overall, Purdue Pharma and the cities found liable adjacent can be sued many ways and this research will focus on the legal implications of these lawsuits and the analysis of each determining what this means for the future of liabilities and what precedent it will set.

Another implication that this research will cover is the politicizing of the opioid crisis and what this means for legislators regarding large corporations targeting vulnerable populations. Although the opioid crisis is almost twenty years old, the ramifications are still being felt today. America also has a tendency to politicize topics that don't necessarily need to be politicized. The opioid epidemic should not inherently be a political issue, however, it is becoming one due to its origin, Appalachia. Appalachia has been a contended political topic for decades and the opioid crisis did not help. This topic will be discussed in further detail throughout this research, however, it is important to note that a topic that should be "cut and dry" still manages to ruffle some feathers on Capitol Hill and is a widely contested topic to this day.

Appalachia

The ARC or the Appalachian Regional Commission is the hub for all things Appalachia. The commission focuses specifically on the Appalachian region of the United States and the statistics of the culture, economic factors, etc. within the region. According to the ARC,

Appalachia is made up of 423 counties across thirteen states and spans 206,000 square miles from southern New York to northern Mississippi. These states include Alabama, Georgia, Kentucky, Maryland, Mississippi, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and all of West Virginia. ARC describes their effort to integrate Appalachia with the rest of the country; however, they state that, “Appalachia still lags behind the rest of the nation on a number of socioeconomic indicators” (ARC, 2023). For example, also according to the ARC, “The percentage of Appalachian households receiving payments from the federal Supplemental Nutrition Assistance Program (SNAP) was higher (over 13 percent) compared to all U.S. households (over 11 percent), with households in Central Appalachia reaching more than 20 percent” (ARC, 2023). As of June 2023, WalletHub conducted a study and found that, “West Virginia was ranked 49th for economic activity, 42nd for economic health and very last, 51st, for innovation potential. The Mountain State was also ranked very last overall. According to the ranking, West Virginia has the lowest median annual household income in the country” (McCann, 2023). When discussing the opioid crisis, Appalachia is also ranked much higher than the rest of the nation in substance abuse. Also, according to ARC, “In 2021 overdose-related mortality rates for people ages 25-54 was 72 percent higher in the region than the rest of the country” (ARC, 2023). People living in this region encounter additional challenges such as transportation, housing, access to medical resources and care, education, and a steady source of income. Nationally, the statistics aren’t much better. In the 12-month period from April 2022 to 2023: there were 111,355 overdose deaths spiking 30% since the pandemic (CNN, 2023). Overall, it is concerning to see the dramatic difference between Appalachia and the rest of the country, and it is not entirely Purdue’s fault for all of Appalachia’s challenges; however, the region was targeted for those challenges and the effects are still being noticed today.

As stated above, Appalachia is usually the forgotten part of the country and is overlooked during important legislative decisions and topics because they are seen as being apathetic towards the problem, or even a part of the problem itself. The opioid crisis targeted this region for specific reasons and now that they are in need of assistance, it is too late. To their credit, politicians and legislators have taken efforts towards combating the opioid crisis, however, only after numerous lawsuits and lobbying efforts took place to persuade those efforts. For example, in West Virginia legislators created the West Virginia First Foundation as an initiative of the attorney general's office in order to combat the opioid epidemic.

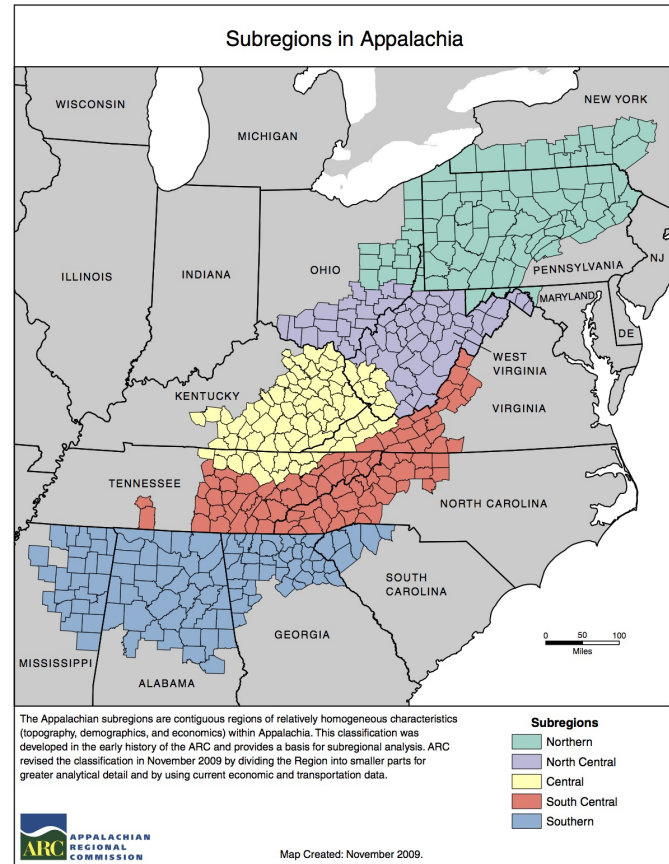


Figure 1, ARC, 2023.

This figure demonstrates a visual representation of the states that make up the Appalachian region. This figure demonstrates that even within the region, there are sub-regions and then counties within those sub-regions. Each state operates similarly to the other and they have fairly the same landscape, however, they have many differences that make them unique and they each face different obstacles. At the end of the day however, they are all a part of the Appalachian region and that connects them in a way that other regions can not relate to.

West Virginia and Purdue Pharma

West Virginia has been at the epicenter of the opioid crisis and often seen at the forefront of Appalachia as well. Additionally, it is the only state in Appalachia that is completely in Appalachia; all counties are included in the region. West Virginia was one of the two testing sites for OxyContin alongside rural parts of Delaware. Purdue Pharma chose West Virginia because of its unique location, Appalachia. According to Forbes magazine, Charleston, WV and Huntington, WV both ranked in the Top Ten of the “Unhappiest Cities in America” (Bloom, 2019). They correlated happiness with money and therefore, theorized that West Virginia was unhappy because they were essentially poor. West Virginia is also unique to the opioid epidemic because their lawsuit was one of the only cases that Purdue did not win or was not found liable.

“In almost 4 years of litigation against Purdue for Oxycontin®, there have been no certifications granted for class action suits from the nine suits filed thus far. There have also been more than 250 private lawsuits filed, with all victories going to Purdue. Purdue insists that they will not settle any of the cases against them. Interestingly, in November 2004, Purdue agreed to pay the state of West Virginia \$10 million dollars to settle a lawsuit that was in the process of jury selection” (Smith, 2005).

This number has changed since 2005 in regards to the number of private lawsuits filed, however, the number is still incredibly low for the number of cases where Purdue has been found liable, or has settled. Overall, it is significantly harder for municipalities to bring a suit against a larger company such as Purdue Pharma. When bringing a suit, “municipalities face a complex task when attempting to prove injury and causation for their harms. And unlike states or nations, municipalities lack inherit authority to bring suits on behalf of their residents” (Monea, 2019).

Therefore, it was easier for West Virginia to bring a lawsuit against Purdue Pharma, however, it was much harder for the local communities that were devastated to do the same. Monea illustrates in his journal the complexities of municipal litigation and describes the terror many counties faced. For example, Mingo County, WV was hit especially hard by the opioid crisis. According to Monea, “Eleven million doses ended up in Mingo County, West Virginia, population 25,000 and one pharmacy received 258,000 pills in a single month” (Monea, 2019). This is just one example of counties in West Virginia that were drastically affected. After years of being torn down by Oxycontin, municipalities began to take their grievances to court. Chicago, Illinois was the initial case in 2014 and by 2017, ten more cities joined including Mingo County, West Virginia. In the case, *The County Commission of Mingo County, and the Town of Kermit, West Virginia v. McKinsey & Company, INC.* Mingo County and the town of Kermit, WV (a municipal corporation of the state of West Virginia) were the plaintiffs against the defendant, McKinsey and Company. McKinsey & Company, INC. is a foreign corporation who worked with Purdue Pharma and the Sackler family beginning in 2004, shortly after the release of OxyContin. This lawsuit specifically concerned, “...McKinsey’s work in the years after the 2007 guilty plea relating to Purdue’s sales and marketing strategy for its opioids” (The County Commission of Mingo County, et al. v. McKinsey & Company, INC., 2018). The court ruled in favor of the plaintiff and awarded Mingo County damages for the damages caused by the opioid epidemic,

...including but not limited to (1) costs for providing medical care, additional therapeutic and prescription drug purchases, and other treatments for patients suffering from opioid-related addiction or disease, including overdoses and deaths (2) costs for providing treatment, counseling and rehabilitation services, (3) costs for providing

treatment of infants born with opioid-related medical conditions, (4) costs for providing care for children whose parents suffer from opioid-related disability or incapacitation, (5) costs associated with law enforcement and public safety relating to the opioid epidemic, and (6) costs associated with drug court and other resources expended through the judicial system... (The County Commission of Mingo County, et al. v. McKinsey & Company, INC., 2018).

This is one of the cases where the plaintiff did win against Purdue Pharma and/or parties associated with them. They were indeed found liable and this paper will continue to look at other lawsuits where other municipalities were not as lucky.

New York

Another prominent lawsuit that gained attention during my research was the Cattaraugus County Board of Health meeting. Many people don't think of New York when they think of Appalachia, however, there are many counties in New York that make up Appalachia. According to the Appalachian Regional Commission, "The Appalachian portion of New York State ('Appalachian New York'), contains the following fourteen counties: Allegany, Broome, Cattaraugus, Chautauqua, Chemung, Chenango, Cortland, Delaware, Otsego, Schoharie, Schulyer, Stuebun, Tioga, and Tompkins" (ARC, 2023). These are rural areas similar to those communities in Kentucky and West Virginia that were also hit hard after the opioid crisis. In my research, I specifically noticed Cattaraugus County. This meeting held in Cattaraugus County was the precursor and reasoning for the lawsuit that was later filed not only against Purdue Pharma but also three other large pharmaceutical companies such as Johnson & Johnson, Janssen Pharmaceuticals, and Teva Pharmaceuticals USA. All of these companies misrepresented opioids

to providers. However, they specifically target Purdue Pharma stating, “Purdue Pharma, launched OxyContin with a bold marketing claim: One dose relieves pain for 12 hours, more than twice as long as any generic opioid medication...Doctors start prescribing OxyContin for everything from backaches to fibromyalgia, and the drug became the top-selling long acting-opioid for more than a decade. Hence, ten years later, Purdue Pharma increased its sales from 1.1 billion to \$3.1 billion” (Cattaraugus County Board of Health, 2017). The board members are establishing a background for the minutes and other board members that might not be in attendance to demonstrate a clear need to bring forth a lawsuit against these pharmaceutical companies. The head of the Cattaraugus County Board of Health, Dr. Watkins then goes on to state statistics regarding financial allocation as a result from the opioid epidemic on a national and state level, regarding New York. He states that, “...in NYS, \$1.25 million dollars is being spent in health and social costs related to prescription opioid abuse each year” (Cattaraugus County Board of Health, 2017). In the US, it was \$55 billion. Watkins explains that this number is outrageous and I would have to agree. He argues that the fact NYS (New York State) has to pay any sort of relief for a drug that was marketed as non-abusive is absurd. He proposes looking at the concept of YPLL or “years of potential life lost” due to opioid abuse would be the best course of action regarding filing a lawsuit. He then provided precedent for other municipalities in New York that have filed similar lawsuits. This is also adjacent to earlier discussion in this thesis regarding municipal litigation and New York, although, yes it is a large state, they have one of the highest municipal litigation rates against Purdue Pharma and other large pharmaceutical companies. Some of the counties include: Broome County, Erie County, Nassau County, Niagara County, Orange County, and Suffolk County pursued legal action against those companies and Watkins described more to follow. Therefore, he proposed to the board of directors to follow in

these counties footsteps and take action against Purdue Pharma. Like discussed above, municipal litigation is difficult and has to reach a certain legal threshold to be upheld in court and not deemed as frivolous or for the judge to issue a summary judgment. *County of Cattaraugus v. Purdue Pharma* was brought to court in May of 2020 and the court ruled in favor of the County of Cattaraugus surprisingly and provided injunctive relief in favor of the plaintiff. The court ordered that,

The Company shall not Promote Opioids or Opioid Products, including by: a. Employing or contracting with sales representatives or other persons to Promote Opioids or Opioid Products to Health Care Providers or patients; b. Using speakers, key opinion leaders, thought leaders, lecturers, and/or speaking events for Promotion of Opioids or Opioid Products; c. Sponsoring, or otherwise providing financial support or In-Kind Support to medical education programs; d. Creating, sponsoring, operating, controlling, or otherwise providing financial support or In-Kind Support to any website, network and/or social or other media account for the Promotion of Opioids or Opioid Products; e. Creating, sponsoring, distributing, or otherwise providing financial support or In-Kind Support for materials Promoting Opioids or Opioid Products, including but not limited to brochures, newsletters, pamphlets, journals, books, and guides; f. Creating, sponsoring, or otherwise providing financial support or In-Kind Support for advertisements that Promote Opioids or Opioid Products, including but not limited to internet advertisements or similar content, and providing hyperlinks or otherwise directing internet traffic to advertisements; g. Engaging in Internet search engine optimization or other techniques designed to Promote Opioids or Opioid Products by improving rankings or making content appear among the top results in an Internet search or otherwise be more visible or

more accessible to the public on the Internet; and h. Engaging in Internet marketing techniques that Promote Opioids or Opioid Products by identifying or generating sales leads, including through pop up ads or information obtained from web forms completed by prospective patients or consumers (County of Cattaraugus v. Purdue Pharma, 2020).

All of these measures were deemed necessary by the court to ensure that Purdue Pharma was found responsible for their actions. Injunctive relief is different from retrospective relief which usually involves monetary compensation for the damages inflicted. However, the court felt injunctive was more appropriate in this case regarding the statistics of YPLL or years of potential life lost. This case demonstrates a win for the municipalities. Retrospective relief is more common in many of these lawsuits, therefore where does this financial compensation go?

Financial Allocation

As stated above, many of these lawsuits result in what the courts refer to as retrospective relief, or monetary compensation. Some other forms of relief can be injunctive relief or declaratory judgment. Declaratory judgment is when the courts declare the rights of both parties without any awarding any financial compensation or other damages. Injunctions are prohibitions to do specific acts as a result of the lawsuit. Any relief is relief in the plaintiff's eyes, however monetary relief does go a long way. However, in these cases, sometimes the money doesn't always necessarily resolve the problem where it was acquired. The courts do not regulate where the money is allocated, they merely set a number that they see fit to relieve the damages. It is then up to the discretion of the individual states and municipalities on where the money is allocated and what resources it helps. In 2007, Purdue Pharma was first sued and claimed responsibility for, "...misleading the public about the addictive potential of its flagship painkiller,

OxyContin. By 2019, more than 130 people were dying daily from opioid overdoses in the U.S., and Purdue faced thousands of lawsuits for its role in the epidemic. The company, owned by the Sackler family, declared bankruptcy in September of that year to short-circuit the lawsuits” (Vickers, 2020). This completely halted many lawsuits due to no potential for retrospective relief and many municipalities were looking for monetary compensation. Vickers published this journal in 2020, around the same time as the major settlement Purdue proposed of approximately \$10 billion with the states and cities that were suing for damages. According to Vickers, “Forty-eight states are [were] suing for damages. They're split between accepting and rejecting the proposed settlement” (Vickers, 2020). This proposed settlement is ten billion dollars. Two dozen states rejected this settlement including New York, Massachusetts, and Connecticut; huge contenders in influencing other states in either accepting or rejecting the settlement. We now know that Purdue Pharma did end up settling for around that amount, however, states were still upset and the Sackler family still has never assumed full responsibility.

As referred to in early discussion, the financial allocation of funds in specific litigations is important for each state and how they combat the opioid crisis. One example is the epicenter of the opioid epidemic, West Virginia. Before Purdue settled in October of 2020, West Virginia University School of Medicine conducted a program labeled West Virginia’s comprehensive opioid addiction treatment program or the COAT program. They began the study in February of 2020 and expanded after the settlement and more money poured into the state. According to a local news source in West Virginia they reached a tentative settlement of more than \$134 million and then an additional \$27 million solely dedicated to Narcan, a medication used to treat overdoses. The COAT program is aimed at people with OUD or opioid use disorder, and receiving the necessary medication needed to treat OUD. The journal states that, “In 2017, it is

estimated that 80% of people who needed medication for opioid use disorder (OUD) did not receive it and rural communities are even harder hit due to lack of waived providers, restrictive treatment regulations and transportation difficulties" (Lander, et. al., 2020). This supports the ongoing argument that Appalachia and specifically, West Virginia was targeted. The obstacles that the location supports alone, made it much more difficult for the rural populations to receive necessary treatment. Luckily, the COAT program's initiative was to achieve this goal and reach as many people as possible. This was not funded by the settlement, however, the outpouring of support from the settlement helped continue the project and gain more traction.

As a result of the settlement, West Virginia allocated that, "72.5% of the settlement will go to a nonprofit foundation established to distribute money in opioid-related litigations, 24.5% would be allocated to local governments and 3% would go to the state" (Associated Press, 2022). The three percent to the state most likely went to miscellaneous expenses, that information was not disclosed. However, the money was being allocated to the appropriate areas destined to attack the correct problem at hand which is inspiring.

This research found that most municipalities handled the settlement similarly. These cases also known as, "bellwether cases", or "trials" are test cases that are intended to try a widely contested issue such as the opioid epidemic. Therefore, a bellwether trial normally represents many plaintiffs against a central defendant, such as Purdue Pharma. The court will hold something that will be universal against said defendant. The United States District Court Northern District of Ohio Eastern Division filed litigation involving eleven bellwether trials. These trials included, "...defendants [as] various types of participants in the opioid drug industry, including: manufacturers (who make the opioids); distributors (who convey the opioids down the supply chain); and pharmacies (who dispense the opioids to end-user patients)" (*County of Lake,*

Ohio v. Purdue Pharma, County of Trumbull, Ohio v. Purdue Pharma, 2022). These plaintiffs are local governmental entities (cities and counties) arguing that Purdue Pharma's, "...actions and non-actions led to a severe oversupply of prescription opioids, which ultimately created a public nuisance" (*County of Lake, Ohio v. Purdue Pharma, County of Trumbull, Ohio v. Purdue Pharma, 2022*). The court does not define "nuisance" but the reader can reasonably infer that nuisance is referring to the fallout from the opioid crisis and the effects resulting from it. The court reached multiple conclusions surrounding these two cases including an approximate \$1.481 billion abatement plan over fifteen years for Lake County and \$1.848 billion over fifteen years for Trumbull County, reaching a total of approximately \$3.329 billion for both counties. This abatement plan seeks to incite action from Purdue Pharma and the courts did include specific regulations for this plan and the allocation of funds.

According to the case file, the Court came to several other conclusions regarding the lawsuit, however, this specific conclusion is interesting:

The Court also concludes a reduction is necessary to account for opioid addiction and abuse that would have occurred even in the absence of Defendants' wrongful conduct. Specifically, the Court accepts defense expert Dr. Chandra's calculation that 65.2% of the abatement costs for Lake County and 60.7% of the abatement costs for Trumbull County are attributable to Defendants' oversupply of prescription opioids (meaning 33.8% of the abatement costs for Lake County and 39.3% of the abatement costs for Trumbull County (*County of Lake, Ohio v. Purdue Pharma, County of Trumbull, Ohio v. Purdue Pharma, 2022*)).

This conclusion demonstrates that the court does recognize and acknowledge that Purdue Pharma is at fault for the amount of opioid addiction and abuse, however states that approximately 36% of the abuse is only at the hands of the Defendant. The court states that some of the opioid addiction and abuse would have occurred even in the absence of the Defendant and that the abatement costs need to reflect this. I found this interesting because I did not notice this clause in any other cases and most courts placed the blame entirely on the pharmaceutical companies. Therefore, in these Ohio municipalities, they did not receive the entire settlement as a result of this abatement regulation describing that the addiction would have happened regardless, yet it was exacerbated by Purdue Pharma.

Political Implications

As stated above, the opioid crisis, although it shouldn't be, has become a topic of political discussion since its approval from the FDA in 1995. The political spectrum gets involved when discussing financial allocation or forming legislation to assist the issues associated with the epidemic. The location of the crisis also comes into play when discussing the opioid crisis as most of the people affected are located in Appalachia, a forgotten part of America. There is a great example in the current Kentucky governor race with Andy Beshear, the opioid crisis has come up, and his competitors argue that he is not "tough on drugs" or he isn't handling the situation properly. However, what is the proper way to deal with an opioid epidemic? Where should the money go? I would argue treatment programs, resources geared towards battling opioid disorders, lawsuits stopping the distribution at the source. This varies from state to state and as previously discussed, financial allocation of settlements vary as well. During this new election cycle, the war on opioids has been coming up frequently and politicians are usually torn on how to respond. In Appalachia specifically, opioids are a common topic and everyone talks

about it, yet little is done. According to the official Kentucky governor's website, "[Andy Beshear] fought against the opioid epidemic, suing opioid manufacturers and distributors that flooded our state with pills; creating the Kentucky Opioid Disposal Program to remove unused opioids from Kentuckians' medicine cabinets; and investigating and prosecuting rogue doctors and drug traffickers" (<https://governor.ky.gov/>, 2023). Voters responded well to this program and Beshear responded accordingly to the epidemic. The Kentucky Opioid Disposal Program is a "no questions asked" program that allows Kentucky residents to dispose of their unused prescription opioids in a completely safe and environmentally friendly manner through a pouch labeled "Deterra". This pouch can be used at home and is a safe way to dispose of opioids properly and making them unavailable for misuse later. Many states have followed in Beshear's footsteps, however, more conservative states and candidates think that more could be done or that we're not doing enough. Beshear's competitor, Attorney General Daniel Cameron recently, in 2022, "...delivered on his promise to fight back against the opioid epidemic by announcing the finalization of a \$26 billion agreement with Cardinal, McKesson, and AmerisourceBergen- the nation's three major pharmaceutical distributors- and Johnson & Johnson (J&J), which manufactured and marketed opioids, for the companies' role in creating and fueling the opioid epidemic" (<https://www.ag.ky.gov/>, 2023). The settlement was allocated 50-50 between local governments and the Commonwealth of Kentucky. According to the Attorney General's website, "The Commonwealth's portion will be managed by the Kentucky Opioid Abatement Advisory Commission" (<https://www.ag.ky.gov/>, 2023). The settlement also provided injunctive relief delegating the marketing, sale, and distribution of opioids in Kentucky. Although Cameron and Beshear have different approaches and one may seem more extreme than the other, if they worked together, the opioid crisis might actually be resolved. Politicizing this topic is not only

harmful to the current/past victims of the epidemic, but the potential victims as well. National politicians need to remember Appalachia and remind themselves the populations of this region were harmed the most as a result of the opioid epidemic.

Future Implications

The opioid epidemic is still very prevalent even today. What began in 1995 has had lasting impacts that are still recognized in 2023. The way our legislators and government leaders handle this crisis will set precedent for years to come. Since Purdue Pharma introduced and the FDA approved OxyContin in 1995, the trend has continued upwards and showing no signs of slowing down. According to the CDC, “The number of drug overdose deaths increased more than 16% from 2020 to 2021” (CDC.org, 2021). Today, “Overdose deaths from opioids, including prescription painkillers and synthetics like fentanyl, continue to rise... an estimated 187 people in the U.S. die every day of opioid overdoses, most involving illicit and dangerous versions of fentanyl” (CDC.org, 2023). Although fentanyl and other opioids are also included in these statistics, the availability and accessibility of these drugs stem from the most widely used drug, OxyContin originally produced by Purdue Pharma.

Three Waves of Opioid Overdose Deaths

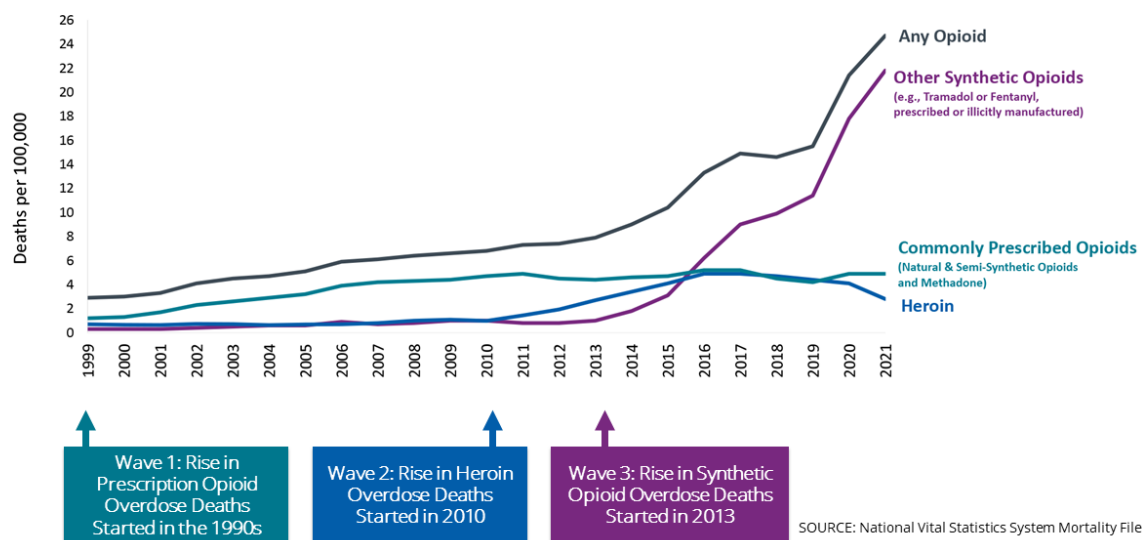


Figure 2, CDC, 2023.

This figure illustrates the statistics discussed above and how the trends of opioid deaths are continuing to increase. This graph represents past and current opioid overdose deaths from 1999 to 2021 and from 2021 to 2023, we can infer that the numbers have continued to increase. The numbers are still increasing today, and the years of potential life lost are also increasing. This graph is only a fraction of the overdoses that are likely reported, and the numbers are still shocking.

Another implication that we are noticing today and discussed previously, is that of the governor's election in Kentucky that recently concluded in November of 2023.. The race between Andy Beshear and Daniel Cameron resulted in incumbent, Andy Beshear winning and securing the governor position once again. A widely contested topic in this recent election was the opioid crisis and how to combat it in Kentucky. Cameron approached it more conservatively while Beshear was more liberal on the stance and wanted more government involvement. This approach was accepted throughout Kentucky and hopefully Beshear will implement his plans to combat the crisis. Kentucky is unique that we have a specific program geared towards aiding the opioid crisis and specifically disposal of opioids. The KORE program or the Kentucky Opioid Response Effort is designed to combat opioids, "...and dedicate much-needed resources to address five overarching goals: (1) prevent opioid misuse and abuse; (2) increasing access to OUD treatment services, including Medication-Assisted Treatment; (3) increasing the availability of recovery support services designed to improve treatment access and retention and support long-term recovery; (4) increasing availability of naloxone; and (5) enhancing statewide coordination and evaluation of healthcare and public safety strategies targeting opioid misuse and overdose" (Department for Behavioral Health, Developmental and Intellectual Disabilities,

ky.gov, 2023). This program will continue to be funded and supported by Beshear's administration in the coming term and will hopefully demonstrate long-term benefits for opioid victims and their families. As I stated before, unfortunately, this topic will continue to become politicized and as long politicians and other important political leaders in charge take a liberal stance on the topic, the trends can continue to decrease. As stated above, OxyContin is usually regarded as a "gateway drug" and is often mixed with other drugs to achieve "the desired high". OxyContin, unless utilized as a medicinal prescription, is rarely used in its natural state when abused. People lick off the original coating to avoid the twelve hour distribution system and then crush them up and either snort, inject, or consume in any form to achieve the high quicker. This is also another reason why the drug is so addictive. Abusers continue to seek that high and therefore, might take one too many pills than they are used to and this is the number one cause of overdoses. Obviously, doctors can not predict that patients/abusers are going to use the drug in this manner, however, once the abuse started, pharmaceutical companies should've targeted this abuse and stopped the misrepresentation and pulled the drug and its label. The future implications of this turned out to be catastrophic and today, we are still noticing the effects.

Purdue Pharma Today

Purdue Pharma, surprisingly, has taken a different approach than their founders, the Sackler family in mitigating the opioid crisis and saving their company with a "hail-mary". The Sacklers showed little to no remorse for their actions and declared bankruptcy in 2021. They stated in 2020 that the narrative surrounding them was, "inaccurate and unfair" and that they acted legally and ethically regarding the release of OxyContin (NPR, 2022). The Sackler family, who still technically owns Purdue today, no longer receive money from the company. However, even after numerous settlements and lawsuits, the family is still worth over ten billion dollars. In

contrast, Purdue Pharma has tried to distance themselves from the family and clean up their mess. In May of this year, the U.S. Court of Appeals for the Second Circuit ruled in favor of Purdue Pharma's Chapter 11 Plan of Reorganization. This ruling affirmed their 2021 bankruptcy legal, and the case will be heard by the Supreme Court in December of this year. This plan will deliver billions of dollars of value for victim compensation, opioid crisis abatement, and overdose rescue medicines. This is a major step forward for Purdue, however, there will always be work that needs to be done and the fight will never stop. I am grateful that they are finally taking responsibility for their actions almost thirty years ago, but I am elated for those victims and their families that will finally be receiving some relief. Purdue is still a multi-million dollar company and pharmaceutical distributor, however they used to be a multi-billion dollar company, therefore they did take a well-deserved hit after the crisis. This plan is on temporary block by the Supreme Court until it is heard in December, therefore, Purdue Pharma is not operating or distributing any pharmaceuticals/opioids in 2023.

Media Representation and Implications

Part of my interest and knowledge of this topic stemmed from a docu-series on Hulu called, "Dopesick". This series created by Danny Strong, starring Michael Keaton, caught the eyes of viewers around the world, and questioned minds on if the horrific stories depicted were true. I decided to research more into the topic and my research question was born. Why was this company run by an old-America multi-generational wealthy family soliciting a mass-casualty drug in low-income rural places in Appalachia specifically. Dopesick was the first of multiple television adaptations and documentaries focused on the pain of the victims of the opioid crisis. Dopesick illustrates the struggles of the opioid crisis in the epicenter, West Virginia as well as other locations throughout the United States. It demonstrates and shows how individuals and

families are affected by it. Then, it specifically narrows in on the conflict of interests between the FDA and Purdue Pharma, and then the legal battle and lawsuit between the United States Department of Justice and Purdue Pharma. This documentary sparked my interest in the topic and after extensive research, I can attest that it is an accurate depiction of what happened. The stories are exaggerated for television, and the people depicted are not based on true stories, however, it is historically accurate and those stories are very similar to experiences real-life families went through during that time. The legal depiction and trial is also exaggerated for dramatic effect, however, the verdict and how the Sackler family is portrayed/reacted to the lawsuit is accurate.

Another media representation of the Purdue Pharma and opioid crisis scandal is the Netflix original TV show, “PainKiller”. Produced by Chris Hatcher, starring Matthew Broderick is a recent television show, produced in 2023. This show examines the opioid crisis through many lenses, which critics say is confusing and many viewers prefer Dopesick to Painkiller. They feel as though it doesn’t accurately portray or expose the truth of Purdue Pharma and was produced more for entertainment purposes.

The media portrayal of the opioid crisis has allowed the movement for reform to gain some traction in the public eye. Before watching Dopesick, I was aware of the opioid crisis, however, not its severity and I had no idea about Purdue Pharma or the destruction that they were capable of and what they had caused. These media portrayals, however, can be dangerous and have the potential to “glorify” opioid abuse and encourage viewers to achieve the high that their favorite actors and actresses are experiencing on screen. This is true of many modern TV shows. “13 Reasons Why”, a Netflix original TV show received criticism after its initial release in 2017 for influencing teenagers and glorifying the act of taking one's life. The storyline was

questionable for certain parenting groups and some even claimed that, “The most egregious example of irresponsible portrayal came with showing- in graphic detail- Hannah Baker’s suicide scene” (Arshad, 2022). The series received backlash claiming that this was not the correct approach to shed light on the mental health issues facing adolescents and that the show was essentially providing a “How-To Guide” for teens. I worry for the same or similar outcome in these docu-series and TV shows portraying the opioid crisis. *Dopesick* was unique in that it focused on the legalities and lawsuit against Purdue Pharma, however *PainKiller* focuses on the issue through different perspectives and is not entirely accurate. I can only hope that in the future, additional TV shows, documentaries, and movies will portray the crisis in its true light and not glorify the use of opioids.

Conclusion

The opioid crisis is still very prevalent today and what began in 1995 is still being observed today in 2023. Purdue Pharma’s exacerbation and misrepresentation of their notorious drug, OxyContin has caused an irreversible shock wave through America. Opioid deaths are continuing to rise, however, legislation and programs are being put in place all over the country to combat the crisis and provide relief to the victims and their families. To name a couple: the COAT program in West Virginia as well as the West Virginia First Foundation are programs combating the opioid crisis. Additionally, the fight is far from over and litigation is continuously developing and ongoing. The Supreme Court will hear a case from Purdue Pharma in December of 2023 so new information is being released everyday. This is also contributing to the media and newfound public interest surrounding the opioid epidemic and the victims’ families. For example, Hulu’s *Dopesick* and Netflix’s *Painkiller*. Finally, it’s important to remember the connection to Appalachia in all of this, and that they are still living the opioid crisis everyday and

the effects are still apparent. The fight needs to continue to be fought and the victims and their families need to continue to fight for justice.

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