Boston jury hears testimony of how Insys Therapeutics pushed opioid painkiller and killed hundreds

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A trial beginning in Boston last week heard testimony of how executives at Insys Therapeutics, Inc. pushed prescription narcotics through bribing doctors to subscribe an addictive fentanyl nasal spray. Prosecutors told jurors that the defendants were guilty of running a "criminal enterprise" contributing to the opioid overdose epidemic that has killed hundreds of thousands of people over the past 20 years.

Assistant US Attorney David Lazarus told jurors in federal court in Boston that John Kapoor, 75, and the company he created, Arizona-based Insys, ran what amounted to a kickback and conspiracy scheme that bribed doctors to routinely subscribe Subsys. An addictive fentanyl nasal spray that is far more powerful than morphine, Subsys has only been approved by the Food and Drug Administration (FDA) to alleviate the pain of advanced cancer.

In 2017, a record 47,600 people died of opioid-related overdoses, according to the US Centers for Disease Control and Prevention (CDC). The Boston trial is the first prosecution of a pharmaceutical company chief executive linked to the national opioid epidemic. Kapoor and the other defendants are facing as long as 25 years in prison. The trial is expected to last three months.

Kapoor, former chairman and CEO of Insys, and four others face racketeering and conspiracy charges on allegations that they used speaker fees to boost Subsys sales and lied to insurers about which patients were getting the drug. Kapoor is accused of masterminding the scheme. Former Insys senior executives Michael Babich and Alec Burlakoff have already pleaded guilty and are cooperating with prosecutors.

The other defendants include the company's former vice president Michael Gurry, ex-national sales director Richard Simon and former regional sales director Joseph Rowan, along with Sunrise Lee, an Insys sales manager.

Beth Wilkinson, Kapoor's attorney, said in her opening statement January 28 that Burlakoff, a former Insys sales executive, sought to block Kapoor from reviewing payments to doctors subscribing Subsys so he could have "free rein" over the fraudulent project.

Holly Brown, a former Insys sales representative, testified that her boss, Sunrise Lee, and another Insys sales rep took Dr. Paul Madison to a high-end nightclub in Chicago in 2012. At one point during the evening, Brown saw Lee, a former exotic dancer, sitting on the doctor's lap, "kind of bouncing around, and he had his hands all over her chest." Madison received at least $70,000 in speaker fees from Insys, according to prosecutors.

According to government witnesses expected to be called, Lee was hired to be a "closer" with doctors targeted by the Insys marketing program. Peter Horstmann, Lee's attorney, objected to prosecutors' focus on Lee, saying in his opening statement that the government likes the lap-dance story "because it's sexy, and that's the only reason." US District Court Judge Allison Burroughs turned down Lee's request for a separate trial.

Michigan doctor Gavin Awerbuch, 60, told the Boston jury last Wednesday that he made more than $130,000 over 18 months for showing up at bogus "education sessions" on Subsys. Awerbuch, who has been convicted of illegally distributing Subsys, said that Insys's attractive sales reps and "easy money" encouraged him to write unnecessary prescriptions for the highly addictive fentanyl nasal spray.

Awerbuch testified that Insys officials set up the phony speaking engagements, but often couldn't get other doctors to show up, so he'd ask his friends and neighbors to attend. Often, it was just him and an Insys sales rep

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sharing dinner. “They had beautiful sales reps and I liked the attention I was getting,” he told the court. Awerbuch has been sentenced to two years in prison for unlawfully prescribing Subsys.

Awerbuch admitted to repeatedly violating US law by prescribing Subsys to patients to earn his supposed speaker’s fee, hauling in about $1,600 a dinner. He admitted to violating US law by prescribing Subsys to patients for the sole purpose of protecting his ability to earn speaker fees.

Subsys is approved only for cancer patients suffering from “breakthrough” pain and is specifically banned for migraine sufferers. Despite this, Awerbuch prescribed the drug to migraine patients along with those suffering from fibromyalgia, sleep apnea, arthritis, depression and anxiety.

In the course of four hours of testimony, Awerbuch described how he and Insys sales representative Brett Szymanski would order extra dinners for their wives to make it look like more people showed up at the events than actually did. Szymanski, testifying under an immunity agreement with the government, told jurors last Tuesday that he would fake names on the attendance sheet or get doctors who hadn’t attended the events to sign them.

Szymanski raked in about $2 million in salary and bonuses over his four years at Insys. He testified that Burlakoff told him to “stop at the playground and get signatures” to make it look like the speaker events were well attended. Burlakoff is alleged to have dreamed up the idea of using a speaker’s program to generate increased profits for Subsys.

In the United States, it is perfectly legal for drug companies to pay doctors to hype the virtues of opioid painkillers—and other prescription drugs, for that matter—to their colleagues at education dinners. While the majority of promotional expenditures are aimed at physicians, direct-to-consumer advertising (DTCA) has been legal in the US since 1985.

The US pharmaceutical industry spent $6.1 billion on advertising prescription drugs directly to consumers in 2017, according to ProCon.org. American consumers are bombarded on a daily basis with TV ads for prescription drugs that treat high cholesterol, diabetes, depression, pain, erectile dysfunction and other conditions. They are advised in these commercials, in small print across the bottom of the screen and in quickly spoken disclaimers, of potential side effects from the advertised drugs, often including serious conditions and even death.

The Boston trial is one of numerous trials planned this year prosecuting Big Pharma in connection with the opioid crisis. In May, Oklahoma is due to be the first state of more than 40 suing Purdue Pharma, the manufacturer of Oxycontin, along with other companies, claiming they hid the addictive properties of their drugs.

In October, three trials will begin in a multi-district litigation case before a federal court in Cleveland, bringing together more than 1,200 lawsuits against pharmaceutical companies from county and city governments across the country.

In the trial underway in Boston against Insys executives, Assistant US Attorney Lazarus said in his opening statement, “This is a case about greed and consequences of putting profits over people.” While the alleged crimes are indeed appalling, the defendants in this case are not in a different league from executives across the board in the giant pharmaceutical industry, in which putting “profits over people” is the norm.

Insys has reported to the FDA that more than 900 people died while taking Subsys since it was approved for use in 2012. These deaths do not include those who may have moved on to heroin, which is now often tainted with fentanyl. These deaths are included among the hundreds of thousands who have fallen victim to the opioid crisis.

There were more than 72,000 drug overdose deaths of all types in the US in 2017, according to CDC estimates. The translates into about 200 drug overdose deaths every day, or about one every 8 minutes. Politicians of both big business parties support and facilitate the deadly practices of Insys and the pharmaceutical giants and champion the for-profit delivery of health care, resulting in misery and destitution for vast swaths of the US population.

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