Purdue Pharma, maker of highly addictive painkiller OxyContin, settles with state of Oklahoma for $270 million

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8 April 2019

Last week the state of Oklahoma reached a settlement with the maker of the painkiller OxyContin, Purdue Pharmaceuticals, for $270 million. The drug maker was accused of perpetuating the opioid abuse epidemic that has plagued the state for nearly two decades. Specifically, the suit charges that Purdue used deceptive marketing that minimized the addiction risk while exaggerating the benefits of their product.

The lawsuit was filed in 2017 by Oklahoma Attorney General Mike Hunter and was set to go to trial on May 28 in what would have been the first in roughly 2,000 lawsuits filed in federal and state courts against Purdue and other opioid manufacturers, including Johnson & Johnson and Teva Pharmaceutical Industries Limited.

Purdue has been embroiled in legal suits since it first put OxyContin on the market in 1995. Within just a few years of its introduction, a sharp rise in opioid abuse and overdose in cities and states throughout the country caught the attention of state regulators. During the same time, OxyContin was quickly becoming the top-selling painkiller in the United States. However, in the latest iteration of legal battles, and seemingly most problematic, Craig Landau, CEO of Purdue, has affirmed that the company has considered filing bankruptcy protection to address potential liabilities from lawsuits.

The settlement in Oklahoma will be the prototype for how the other pending cases may be resolved as Purdue and other big drug makers attempt to avoid jury trials. States, facing chronic budgetary cuts and dwindling resources, are also attempting to eke out settlements with the pharmaceuticals, fearing other cases will deplete the financial resources of these corporations.

The economic burden to the United States wreaked by these giant pharmaceutical industries peddling their highly addictive painkillers is estimated by the Centers for Disease Control and Prevention (CDC) at $78.5 billion a year. It is not an exaggeration that they have created the worst drug crisis in US history.

The statistics on deaths from drug overdose in the United States are staggering and read like a war chronicle. From 1999 to 2017, more than 700,000 people have died from a drug overdose. Around 68 percent of more than 70,200 drug overdose deaths in 2017 involved opioids. According to the CDC, on average, 130 Americans die and 1,000 are treated in emergency rooms every day from an opioid overdose.

Though the number of opioid pills prescribed has been on the decline, in 2011, at its peak, usage was an average of 72 pills for every adult in the United States. At present, the average is still a remarkable 52 pills per adult. In 2016, physicians wrote over 200 million prescriptions – a rate of 66.5 prescriptions per 100 people. At least one in every five patients receives an opioid prescription for noncancer pain.

The global opioid market was valued at $22.96 billion in 2016 and projected to expand at an annual rate of 4.8 percent. Given the recent increased restrictions imposed by the US Food and Drug Administration (FDA) on prescribing painkillers, manufacturers of opioids are looking abroad to recoup lost revenue, taking the epidemic crisis to a global scale.

The ability to generate this mass of wealth and extensive reach is beyond the capacity of any one pharmaceutical corporation. The state, the infrastructure that creates its legal and regulatory systems, becomes instrumental in shielding and abetting them as they pursue their profits.

The revolving door and incestuous relationship between federal regulators, the Justice Department and the industry has been an enduring modus operandi that has seen Purdue's sales of OxyContin reach $35 billion since launching the drug. Through its aggressive marketing campaign, it has become the most prescribed narcotic in the country. It has been estimated that more than 7 million Americans have abused OxyContin and more than 300,000 have died from overdoses involving OxyContin alone.

In the late 1980s, on the verge of losing its patent on MS

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Contin, a morphine derivative manufactured as an extended-release tablet for the treatment of cancer pain, Purdue invested $40 million into the development of a new painkiller, applying their Contin extended duration methods to repackage an old cheap narcotic called Oxycodone.

The crux of their marketing strategy was centered on touting the 12-hour duration as the factor for the superiority of the drug over their short-acting competition. In their press release statement, Purdue boasted that "OxyContin tablets provide for smooth and sustained pain control all day and all night."

Though the company claimed that the delayed absorption would reduce the abuse-ability of the drug, no clinical studies were performed to back up their claim and many patients and physicians, by their experiences, have emphatically refuted it. OxyContin is chemically related to heroin, and when the drug wears off, patients can experience a rapid onset of withdrawal symptoms, heightened sensation of their pain, as well as an intense craving for the drug.

As Dan Spyker, the FDA medical officer who helped write package inserts for drugs and medical devices in the 1990s and later left the FDA to work for Purdue, explained to *Marketplace* in 2017, "There is nothing fought over, struggled over, agreed on … or in a sense, disagreed on, as much as a package insert. The FDA can have any package they want … no matter what the [drug company] says. But as you can imagine, we have respect and responsibility for the [drug companies] as well. So, we've always worked hard with [them]."

In 2007, Purdue and three top executives admitted that they had "intent to defraud and mislead" in promoting OxyContin as less addictive and less abusable. In one of the largest pharmaceutical settlements in US history, Purdue paid over $600 million in fines.

"Purdue's claims that OxyContin was less addictive and less subject to abuse and diversion were false – and Purdue knew its claims were false," US Attorney General for the Western District of Virginia John Brownlee explained in announcing the 2007 settlement. "The results of their misrepresentations and crimes sparked one of our nation's greatest prescription drug failures … Purdue's OxyContin never lived up to its hype and never offered a low-risk way of reducing pain as promised. Simply put, the genesis of OxyContin was not the result of good science or laboratory experiment. OxyContin was the child of marketers and bottom-line financial decision making."

At a congressional hearing that year Republican Senator Arlen Specter pressed the Attorney General on why the executives were allowed only to plead to a misdemeanor instead of being prosecuted under felony charges. Brownlee only responded that the lower charges were appropriate given the evidence but declined to describe his decision citing grand jury secrecy rules.

It later emerged that the case never went forward due to the lack of support from political appointees at the Justice Department who had behind the scenes meetings with Purdue's legal team, including former New York City Mayor Rudolph Giuliani and Mary Jo White, a former US Attorney for the Southern District who would be nominated by President Barack Obama to serve as chair of the Securities and Exchange Commission. Then-Attorney General Alberto Gonzalez had even threatened to fire Brownlee over the decision to settle the case.

The potential impact on future earnings as a result of the lawsuit in 2007 was not missed by Dr. Richard Sackler, head of the Sackler family that owns Purdue. In a secret 2008 memo to his family members, he wrote that the pain management business now "posed a dangerous concentration of risk." As Bloomberg noted, "It was vital to have loyal subordinates in place to provide a legal shield." He recommended to his family that they should either sell Purdue, or if no buyer was found, "milk the profits out of the business."

Any assumption that the latest round of lawsuits will result in justice for the victims of the criminal actions perpetrated by Purdue and others is simply foolish optimism at best. The role of the legal system functions to preserve and perpetuate the capitalist relations despite the catastrophes they create. The lawsuits and settlements are aimed at containing and directing the frustrations and anger of the working class away from the root of the opioid crisis, which is the capitalist system.

The big pharmaceutical companies must be transformed into publicly owned utilities, democratically operated in the interests of humanity, and billions of dollars immediately directed to the aid and treatment of the millions suffering from addiction. The health insurance industry must be abolished and replaced with universal, socialized healthcare based on collaboration between scientists, physicians and industry experts in the healthcare field to meet human need, not private profit.

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