

NYE COUNTY AGENDA INFORMATION FORM

Action Presentation Presentation & Action

Department: District Attorney	Agenda Date:	
Category: Regular Agenda Item	January 16, 2018	
Contact: Angela A. Bello, District Attorney	Phone: 775-751-7080	Continued from meeting of:
Return to: Angela A. Bello	Location: Pahrump	Phone:

Action requested: (Include what, with whom, when, where, why, how much (\$ and terms)

Discussion and deliberation to: 1) authorize Request for Proposals from law firms to associate with the District Attorney to institute legal action against opioid drug manufacturers and distributors; and 2) authorize the County Manager and District Attorney to jointly select one or more law firms from the submitted proposals to present proposals to the Board of County Commissioners.

Complete description of requested action: (Include, if applicable, background, impact, long-term commitment, existing county policy, future goals, obtained by competitive bid, accountability measures)

Opioid drug use is a national epidemic. Numerous local governments have filed lawsuits for recovery of damages incurred by the government for services to combat the opioid crisis. The DA requests authorization to solicit Request for Proposals from law firms so that the Board of County Commissioners may receive one or more presentations from one or more law firm selected from the proposals. The anticipated presentation provided by the one or more law firms would set forth the legal/litigation issues involved, the status of litigation already filed by local governments, the status of litigation filed by government entities in state and federal courts and provide relevant information regarding the hundreds of lawsuits filed against opioid drug manufacturers and distributors as well as the services the law firms may provide. Additional backup includes documents regarding this litigation.

Any information provided after the agenda is published or during the meeting of the Commissioners will require you to provide 10 copies: one for each Commissioner, one for the Clerk, one for the District Attorney, one for the Public and two for the County Manager. Contracts or documents requiring signature must be submitted with three original copies.

Expenditure Impact by FY(s): (Provide detail on Financial Form)

No financial impact

Routing & Approval (Sign & Date)

1. Dept	Date	6.	Date
2.	Date	7. HR	Date
3.	Date	8. Legal	Date
4.	Date	9. Finance	Date
5.	Date	10. County Manager	<input checked="" type="checkbox"/> Place on Agenda

ITEM # 25

LOCAL

Minnesota counties, cities joining rush of lawsuits against opioid producers

They are joining scores of county and local governments alleging manufacturers and distributors of prescription opioids are largely responsible for an epidemic of dangerous addiction.

By Pam Louwagie (<http://www.startribune.com/pam-louwagie/10645326/>) Star Tribune

NOVEMBER 18, 2017 — 8:34PM

Several of Minnesota's largest counties and cities are on the verge of joining a national wave of government lawsuits targeting pharmaceutical manufacturers and distributors for the public cost of the opioid crisis.

Commissioners of at least a half dozen county boards authorized their attorneys this month to enter into agreements with private law firms to either sue or consider litigation, including Hennepin, Ramsey, St. Louis, Chisago, Mower and Steele counties. On Friday, the Minneapolis City Council decided to file suit. St. Paul also plans to do so, a mayoral spokesman said.

They are joining scores of county and local governments throughout the country alleging manufacturers and distributors of prescription opioids are largely responsible for an epidemic of dangerous addiction that has caused thousands of deaths and strained public resources.

"The county attorneys are trying to figure out how, collectively, we can be responsible and be aggressive about supporting folks in our communities against this opiate crisis," said Hennepin County Attorney Mike Freeman, who said his county's board discussed the issue in a closed legal briefing earlier this month. "We're all trying to unite together to quietly but forcefully say 'Enough is enough.' They've got to stop this crap."

With a federal hearing on such litigation scheduled for the end of the month, some Minnesota counties and municipalities are scrambling to consider filing suit before then. Freeman and other attorneys expect a substantial portion of the state's 87 counties will eventually sue.

Too much pain medication

In lawsuits reminiscent of actions against tobacco companies in the 1990s, governments in other states have alleged that pharmaceutical companies used deceptive marketing practices and misrepresented the addictive nature of the drugs, flooding communities with the addictive prescription pills. Distributors are being blamed for failing to report suspiciously large orders of opioids in certain areas.

The suits seek damages for the governments' costs in handling the opioid epidemic, including law enforcement, medical treatment and social services.

In response to other lawsuits, representatives for the defendants have denied any wrongdoing.

Ramsey County Attorney John Choi, who said his County Board met in a closed session Tuesday to discuss pending litigation, said the county plans to file its lawsuit before the end of the month seeking "monetary and non-monetary remedial damages."

"This isn't just about money," Choi said. "This is about also other things that could be done to ensure that we're truly addressing this epidemic moving forward ... clearly there's way more pain medication than is actually necessary for our populations throughout Minnesota."

Prescription painkillers have been blamed for starting the opioid epidemic and driving those addicted to illegal street drugs such as heroin. A Star Tribune analysis of state death certificate data found 402 opioid-related deaths in Minnesota in 2016, up from 344 in 2015 and more than double the number in 2006.



(http://stmedia.startribune.com/images/ows_14859247239883
DAVID JOLES / STAR TRIBUNE FILE

Ramsey County Attorney John Choi, who said his County Board met in a closed session Tuesday to discuss pending litigation, said the

Nationally, overdose deaths from opioids, including prescription opioids and heroin, have more than quadrupled since 1999, according to the CDC. From 1999 to 2015, more than 183,000 people died from overdoses related to prescription opioids.

In St. Louis County in northeast Minnesota, where the opioid crisis has hit communities especially hard, commissioners voted unanimously Tuesday to authorize a lawsuit.

St. Louis County had the second-highest rate of opioid-involved overdose mortality in the state from 2011 to 2015, with 10.7 deaths per 100,000 people. Neighboring Carlton County had the highest rate with 12.4 deaths. The state average was 5.7 during that time.

"It's been very significant in our neck of the woods," said Commissioner Patrick Boyle, a nurse practitioner who has seen the epidemic in his work.

Unlike many states, counties in Minnesota are responsible for out-of-home placement of children — a cost that accounts for more than 10 percent of St. Louis County property taxes, Boyle said.

"We have just under 800 kids in out-of-home placement and we are predicting a majority of those kids are due to the opiate heroin crisis from their parents," he said.

The county has also poured money into getting overdose patients into treatment faster, helping to fund a new opioid detox center.

Minneapolis City Attorney Susan Segal said that since the Minneapolis Fire Department began carrying the opioid antidote naloxone in May of 2016, firefighters have responded to 363 opioid overdose emergencies and administered more than 500 doses.

"It has just been a devastating epidemic," Segal said. The city's lawsuit will help send a message to companies, she said, to "stop these deceptive ... marketing and distribution practices."

Part of a strategy

The lawsuits are part of a strategy to combat the opioid crisis through various means, including prescription drug turn-in programs and prosecution of illegal drug dealers.

In September, state attorneys general from around the country served subpoenas on companies that produce and distribute opioids.

A state task force recently set new limits on opioid prescriptions by doctors who participate in the state's Medicaid program.

Julie Ring, executive director of the Association of Minnesota Counties, said that in talking with county leaders throughout the state over the past few weeks, she found "there is a fair amount of interest" in lawsuits against the companies that make and distribute the prescription drugs.

While the law firms are taking the cases on contingency — meaning they assume the cost of investigating and presenting the case, but then collect attorney's fees out of any damage awards they might win — Ring said counties are considering how much staff time may be needed to help document the government costs involved in dealing with the opioid crisis.

"We're concerned with making sure that counties are thinking through all the pros and cons," Ring said. "There is a certain amount of data gathering that has to go into building these cases. That will require some county resources. ... If a large number of counties decide to move forward, we might be able to help them streamline that data."

A federal panel of judges in St. Louis, Mo., is slated to hear arguments Nov. 30 on whether similar suits around the country should be transferred and consolidated to go before a single judge in multidistrict litigation. Some experts feel it would be advantageous for governments to file suit before that hearing, though others say there is little harm in taking more time to decide.

The push for lawsuits in Minnesota has "come up fairly rapidly," Ring said. "We've told folks ... they should take the time they need to determine that it's the right choice for them."

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Clark County sues pharmaceutical industry over opioid crisis

By: Patrick Walker

Posted: Dec 05, 2017 07:18 PM PST Updated: Dec 05, 2017 07:18 PM PST

LAS VEGAS - Grim statistics revealed that Nevadans are dying at a rate of more than one person a day because of the opioid crisis.

Clark County District Attorney Steve Wolfson wants to fight back by suing drug manufacturers and distributors. He says they're to blame for the abuse of opiate painkillers.

"It is my request that you authorize the commencement of civil litigation," said Wolfson during a County Commission meeting Tuesday. "It's all about results, and that's what we want and need as a result of this lawsuit."

County commissioners also approved Robert Eglet and his law firm to handle the litigation of the civil lawsuit. The county is seeking damages and relief from what it has endured as the opioid crisis has worsened across the nation and Nevada.

"For all the losses that the county has incurred and the strain that is put on their social services as well as the justice system, the healthcare system, among other things," Eglet said.

8 News Now has obtained a draft of the lawsuit, which is expected to be filed in District Court on Wednesday. It names over a dozen pharmacies and manufacturers, and distributors of opiate painkillers, including Nevada companies, "Watson Laboratories" and "Lam's Pharmacy incorporated."

The 46-page complaint alleges the companies are "public nuisances; common law public nuisances that engage in negligent misrepresentation, and negligence creating a public health crisis, by engaging in a fraudulent scheme" that is fueling a secondary market of illegal drugs."

Any settlement or judgment could be massive, and Eglet says filing in district court will likely be the fastest way to get to a resolution.

"I believe our state courts here will be able to efficiently move this case through the system quicker than most other jurisdictions," said Eglet.

Eglet and his law firm have also successfully won some \$1.5 billion dollars in settlements and verdicts over the past decade.

Most notably, several cases and hundreds of millions of dollars in settlement money related to the Hepatitis C outbreak.

The Washington Post

Investigations

Drugmakers and distributors face barrage of lawsuits over opioid epidemic

By Scott Higham and Lenny Bernstein July 4, 2017

The companies that manufacture and distribute highly addictive painkillers are facing a barrage of lawsuits for the toll their product has taken on communities across the country as the worst drug epidemic in U.S. history continues to escalate.

Within the past year, at least 25 states, cities and counties have filed civil cases against manufacturers, distributors and large drugstore chains that make up the \$13 billion-a-year opioid industry. In the past few weeks alone, the attorneys general for Ohio and Missouri, along with the district attorneys for three counties in Tennessee, filed suits against the industry — and the attorney general for Oklahoma filed suit on Friday.

The strategy echoes the effort against major tobacco companies in the 1990s and is born of similar frustration over rising death rates and the increasing costs of addressing the continuing public health crisis. After years of government and pharmaceutical firms failing to control the problem, some lawyers say the suits have the potential to force the industry to curb practices that contribute to it.

"If they're not going to do it voluntarily, we're going to drag them to the table and make them," said Ohio Attorney General Mike DeWine, who sued five drug manufacturers for the costs of the opioid epidemic.

Dozens of other state, county and city governments and local law enforcement agencies are considering legal action. Some states are interviewing law firms.

Delaware is among a handful of states that are even issuing "requests for proposals" from law firms.

In addition, more than half the country's state attorneys general — Republicans and Democrats — have banded together to investigate the industry.

Two congressional panels also are examining the industry — the Senate Homeland Security and Governmental Affairs Committee and the House Energy and Commerce Committee. The Justice Department's inspector general is investigating why the Drug Enforcement Administration slowed enforcement efforts against drug distribution companies.

Representatives of the companies deny wrongdoing and vow to vigorously defend themselves. They said they have taken steps to prevent the diversion of their drugs to the black market. Stemming the epidemic, they said, will take a coordinated effort by doctors, the industry, and federal and local government agencies.

"As we look to prevent abuse and misuse in the future, it will require a forward-looking, systemic approach that calls on greater coordination and collaboration between health-care, law enforcement, and state and federal regulatory authorities," said the Healthcare Distribution Alliance, which represents companies that distribute drugs.

But in a blow to the industry, the D.C. Court of Appeals on Friday rejected arguments from a drug distributor, Masters Pharmaceutical, that would have undermined the DEA's ability to hold companies responsible for pain pills that are diverted to the black market.

The lawsuits come as states and communities grapple with the economic impact of a prescription drug epidemic that has resulted in nearly 180,000 overdose deaths between 2000 and 2015 — more than three times the number of Americans who died during the Vietnam War. The epidemic has led to thousands more deaths from overdoses of heroin and fentanyl, which are becoming easier and cheaper to obtain than prescription drugs.

But winning the lawsuits will not be easy, according to Richard C. Ausness, a professor at the University of Kentucky College of Law who studies product liability litigation. He said it is more likely that the companies will settle rather than try to defend themselves against dozens, perhaps hundreds, of lawsuits.

"I think what's going on, and this is what happened in the tobacco litigation, is that the plaintiffs never actually won a case," Ausness said. "What they did is they drove up the cost of litigation so much that the defendants finally settled."

Manufacturers, distributors and pharmacy chains are expected to argue that they cannot be held responsible for what happens to pain pills once they travel down the supply chain.

"They ship a drug that's approved by the FDA [Food and Drug Administration], and then a bunch of bad actors intervene — pill mills, doctors who overprescribe and the addicts themselves," Ausness said. "It's a pretty strong argument."

The suits are reminiscent of the tobacco cases filed two decades ago. In the 1990s, 46 attorneys general eventually combined their resources to sue the tobacco companies. In 1998, the industry settled those suits, agreeing to pay more than \$200 billion.

"These pharmaceutical companies should be scared as hell," said Richard Fields, an attorney who has filed suit on behalf of the Cherokee Nation in Oklahoma.

The suit alleges that the nation's top six drug distributors and pharmacy chains flooded the state with hundreds of millions of pain pills, decimating the Cherokee Nation's 14 counties.

During a meeting of the Democratic Attorneys General Association in May in Portland, Ore., industry officials said they were not to blame for the epidemic. Instead, they said during a panel discussion that they were part of the solution and had put programs in place to prevent the illegal use of pain pills.

Grant Woods, a former Arizona attorney general who was the first Republican to sue the tobacco companies, said he was appalled by what he heard. As the officials finished their presentations, Woods stood from his seat in the crowded sixth-floor ballroom of The Nines resort hotel and told them they all deserved to be sued.

Woods has joined forces with another veteran of the tobacco lawsuits, Mike Moore, who served as the attorney general for Mississippi and filed the first of the tobacco suits. The two attorneys, along with other high-profile lawyers, are now working for Ohio and Mississippi on their opioid cases, and they are signing up other states to sue the companies.

Woods said the similarities between the opioid and tobacco suits are striking.

"They are big companies that knew their product was doing harm," he said. "Instead of helping to solve the problem, they promoted the irresponsible use of their product to improve their bottom line."

At the same time, prescription narcotics, when used appropriately, can eliminate pain without deadly health consequences — a claim cigarette manufacturers could not make.

The suits target some of the biggest names in the business, including McKesson, Johnson & Johnson and CVS.

Some of the suits allege that the companies fraudulently marketed opioids to the public. Others claim that the companies failed to report suspiciously large orders of prescription pain pills placed by distributors and pharmacies.

McKesson, the largest drug distribution company in the country, said in a statement: "While McKesson doesn't manufacture, prescribe, or dispense opioids, we have taken steps to play a leadership role in combatting this epidemic in close partnership with doctors, pharmacists, the DEA and other organizations across the supply chain."

Johnson & Johnson's pharmaceutical unit, Janssen Pharmaceutical, issued a statement saying the company is "continuing to work with stakeholders to support" the "safe and appropriate use" of opioids.

CVS said it has "stringent" procedures to keep prescription pain pills out of the hands of drug addicts and dealers.

"CVS Health is committed to the highest standards of ethics and business practices, including complying with all federal and state laws governing the dispensing of controlled substance prescriptions, and is dedicated to reducing prescription drug abuse and diversion," the company said in a statement.

As the epidemic spreads, more states are declaring states of emergency and filing lawsuits.

In New York, eight counties have filed suits. Salvatore Badala, who filed a suit on behalf of Nassau County on June 12, said his client needs financial help. "It's getting worse every day," he said.

In Missouri, Attorney General Josh Hawley filed suit June 22 against three manufacturers of opioids. In 2015, 500 people died from opioid-related overdoses, not counting heroin, and there were 30,000 opioid-related emergency room visits that same year, a 200 percent increase over the previous decade.

In West Virginia, seven counties filed suit in March. "It's outrageous," said Paul Farrell Jr., who filed the suits.

He and other attorneys say they expect industry lawyers to delay the cases.

"They can drag it on for a very long time," said J. Gerard Stranch IV, a lawyer who is part of the Tennessee suit. "But there will come a day when they have to stand up in front of a jury and explain themselves. And that day of reckoning is coming."

 **152 Comments**

Scott Higham is an investigative reporter at The Washington Post, where he has worked on metro, national and foreign projects since 2000.  Follow @ScottHigham1

Lenny Bernstein covers health and medicine. He started as an editor on the Post's National Desk in 2000 and has worked in Metro and Sports.  Follow @LennyMBernstein