

Bashing Big Pharma*

by Charles W. Van Way, III, MD



*Oklahoma settled its claims against Purdue Pharma and the Sackler family for \$270 million in March 2019. More than 1,600 other lawsuits are pending.

I read in the newspapers (remember them?) that Massachusetts is suing the Sackler family. Now, that's a very rich family, whose members have a long history of contributing to good works. These include art museums, civic programs, symphonies, and so forth. Governments don't usually sue rich families, especially civic benefactors. What does the state of Massachusetts have against the Sackler? They own Purdue Pharma, a privately held company which makes OxyContin. Its main ingredient is oxycodone, the most widely prescribed opioid. From selling oxycodone, the Sackler family has made a lot of money.

As we all know, oxycodone has been a major factor – perhaps *the* major factor – in the rise of the opioid epidemic. More people now die from opioids than from motor vehicle crashes. Or firearms. The number continues

to rise, fed partly by legally-prescribed drugs, and partly by illegally made drugs on the black market. Physicians have taken our share of the blame for this, and rightfully so. But it's clear that we were not the only cause. And so, the search goes on for who to blame.

Money is a factor in all of this. Governments at all levels have found opioid addiction to be very expensive, not just in direct costs of medical care and law enforcement, but also in terms of lost income. Addicts are very poor taxpayers, and that's a problem for governments. A lot of states, cities, and local governments would very much like to find someone with deep pockets to pay some of the costs.

We've been here before. The obvious example is the tobacco lawsuits. Whether they've done much to curb smoking is uncertain, but they have limited tobacco advertising. Smoking has certainly decreased. Except for vaping. And marijuana. Which have both increased, largely due to increased advertising (vaping) and favorable publicity (marijuana). But even in the drug area, there was the frenzy over rofecoxib and similar COX-2 inhibitor drugs ten or fifteen years ago. The public, and lawyers, discovered that known side effects of these drugs really existed, and sued the companies that made them. Money was extracted from Big Pharma, and the whole thing subsided.¹

Back to the lawsuits. As civic philanthropists, the Sacklers have had a high profile, especially in New York.



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At the New York Metropolitan Museum of Art, there is a Sackler Wing. But despite this, the *New Yorker* magazine published an “expose” of the family in 2017, entitled “An Empire of Pain.”² It basically called them the Great Villain in the opioid crisis. And it opened hunting season on the Sacklers personally. A large number of states, counties, and cities across the country had already lined up to sue Purdue Pharmaceuticals. Massachusetts is the first state to sue members of the family by name, but others will surely follow.

Now, Big Pharma was first used about 10-15 years ago to describe the top worldwide companies. Today, it’s used more simply to describe the pharmaceutical industry as a whole. Purdue Pharma is mid-sized, by the standards of Big Pharma. Privately held, its revenue is \$3 billion or so per year. Given an earnings ratio of 20, that would make it worth \$60 billion. It’s not for sale, nor is it listed on the markets, so that’s not an accurate figure. But it’s in the ballpark. The top six pharmaceutical companies, the original Big Pharma, have valuations of \$100 billion and more.

While Purdue makes a variety of products, its main focus is on pain management. And its best-selling pain medication is OxyContin, a supposedly long-acting form of oxycodone. Introduced in 1996, it was heavily promoted as being relatively safe from abuse, and long-acting. This last meant that it would be useful for chronic pain, with twice-a-day dosage. As we know now, both of these claims were false. Yet, the drug was promoted heavily as if they were true. That’s called false advertising, otherwise known as lying to the public. Therefore, the lawsuits.³

The marketing of OxyContin (1996) and its predecessor MS Contin (1984) began at an auspicious time. The “no one should suffer pain” movement was ramping up. Organizations such as Kansas City’s Center for Practical Bioethics were complaining loudly that doctors were too reluctant to prescribe pain relievers. The “pain is a vital sign” movement had gained traction. Patient satisfaction surveys had begun to circulate, and to be taken very seriously by hospital administrators, news media, and other

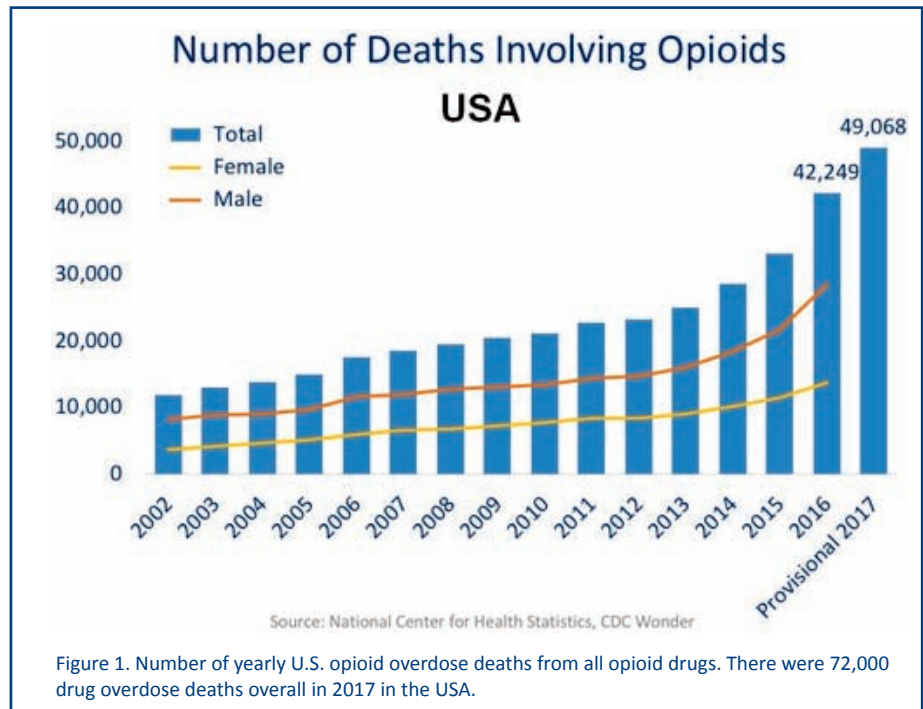


Figure 1. Number of yearly U.S. opioid overdose deaths from all opioid drugs. There were 72,000 drug overdose deaths overall in 2017 in the USA.

gullible people. Most importantly, physicians, other health professionals, and hospitals had forgotten that morphine and its derivatives are very dangerous drugs. And so, we have the opioid epidemic today. It’s a lot harder to cure addiction than it is to prevent it. We have not yet found a way to put this evil djinn back in the bottle. Figure 1.

Will the lawsuits help? They actually serve two useful purposes. First, they provide a lot of publicity about the problems of opioid over-use and abuse. Warning the public is a Good Thing. And let’s face it. Medical journals provide a lot of useful information, but a lot more people read *The New Yorker* and the *Wall Street Journal*. Second, the opioid epidemic has cost a lot, and recouping some of the costs is seen by the general public to be very reasonable.

So, if the company was at fault, why sue the Sacklers? Probably, Massachusetts looked at all of the other 1,600 lawsuits against Purdue, and figured Purdue would simply go under. And so, it has. Purdue Pharma is now preparing to file bankruptcy.⁴ That would allow the Sackler family to avoid responsibility. But fair is fair. When a family has become extremely rich while starting a national epidemic of drug use, it serves justice to hold that family responsible for its collective actions.

Lawsuits won’t cut the supply of drugs very much, if at all. They might drive Purdue Pharma out of business, and the Sackler family may move down the list of America’s richest families (currently #16). Unhappily, the overall

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situation won't really change a great deal. Other companies already make opioids. Purdue isn't even the only source for oxycodone. OxyContin is protected by patents, but oxycodone has been around since 1916. It's made around the world by many other companies. It's a generic medicine in the U.S. There's a huge supply worldwide. Is some of that being diverted into illegal channels? The question pretty much answers itself. Oxycodone, fentanyl, and other opioids come into the U.S. by many different routes to supply the underground trade. The heavily-regulated U.S. drug industry doesn't supply much, if any, of that illegal supply.

Lawsuits are a blunt instrument. Still, adverse publicity combined with monetary damages may have a beneficial effect. If nothing else, they will discourage other entrepreneurs from pushing harmful drugs on the public. Or at least, dampen their enthusiasm. Voltaire once said that the English found it good to kill an admiral from time to time, to encourage the others.⁵ Our tort system doesn't actually kill anybody, but the overall effect is similar.

If nothing else, all of this publicity means that we as physicians don't have to accept all of the blame for the opioid epidemic. We do have our share of the accountability, to be sure. We were gullible, when we should have been skeptical. Optimistic, when we should have been wary. We should have known better. But... we, too, are part of society. What everyone believes, we come to believe. And we wanted to believe that we could relieve pain, without risks and consequences. We still want to do that. But now, perhaps, we have become more careful.

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