



Niagara legislature will declare opioids a 'public nuisance'

By Tim Fenster tim.fenster@niagara-gazette.com February 13, 2018

LOCKPORT — Niagara County legislators advanced a measure Monday to declare opioids a 'public nuisance' in a move to aid the county's lawsuit against several manufacturers and distributors of painkillers.

The public nuisance declaration, which will be put to a vote at the legislature's Feb. 20 business meeting, states that the "overabundance" of painkillers has fueled heroin addiction, and that opioid manufacturers and distributors should bear some of the cost of addressing the crisis.

"Everyone knows the epidemic and (that) all families have been affected by this, dollars have been spent on this," said Majority Leader Randy R. Bradt, R-North Tonawanda. "The problem is we have to make a local law to ... declare it a public nuisance, before we can do anything else we may or may not want to do."

Deputy County Attorney John Ottaviano, who recommended the declaration, explained that it confirms the purpose of the county's lawsuit against five manufacturers and three distributors of opioid painkillers.

In June 2017, the legislature voted to pursue litigation against those pharmaceutical companies. Representing the county is Napoli Shkolnik, PLLC, a Manhattan-based law firm that is representing dozens of other New York State counties in similar lawsuits.

At the time, Niagara County became one of the first in Western New York to sue pharmaceutical companies for their role in the heroin and opioid epidemic. Dozens of New York counties have since filed similar lawsuits, as have other states and municipalities.

"It's something you're seeing happen all across the country in many communities, and we are certainly at that point," said Legislator Rebecca Wydysh, R-Lewiston. "It is a problem for all of us."

Wydysh, who chairs the county's opioid addiction committee, said the lawsuit aims not only to "help our taxpayers with the budget issues we're having, but also to get (opioid manufacturers) to play a bigger part in solving this problem that they helped create."

Critics of pharmaceutical product makers like Purdue Pharma say the companies misled doctors and patients on the addictive nature of opioid medications, and continued to market the pain relievers despite growing rates of addiction. Critics also say these companies ignored the fact that continued use of opioids diminishes their pain-relieving nature, requiring increases in dosage which increases the risk of addiction.

New York counties are also filing lawsuits against three opioid distributors, for allegedly filling large and suspicious orders of opioids like OxyContin.

"They failed in their duty to report what were obviously very suspicious orders," Napoli associate Joe Ciaccio said previously.

Niagara County is retaining Napoli on a contingency basis. According to information provided by Ottaviano, the county would pay Napoli 7.5 percent of a pre-complaint recovery, 15 percent after ruling on a motion to dismiss, 20 percent after the close of pre-trial discovery and 25 percent after a ruling on summary judgment.

Ciaccio said he doesn't expect the lawsuit to be settled for years.

Bradt said the county has not yet set a price on damages it's seeking to recover.

"That is still up in the air," Bradt said. "It's an ongoing lawsuit."

Bradt, who lost his nephew to a heroin overdose brought on by prescription opiate addiction, acknowledged that the fight against opiates is a personal issue for him.

"It's very tough for me. It affects my family personally," Bradt said. "It affects thousands of families out there personally. I will keep doing everything in my power as a legislator to combat this and help every family to get them the help, so that it doesn't happen in their families."

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