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County board wants ordinance declaring opioid crisis a public nuisance

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Palm Beach County commissioners have directed County Attorney Denise Nieman to draft an ordinance declaring the **opioids epidemic** a public nuisance and making clear the county's ability to recover money it is spending combating the crisis.

The county filed suit last week against 29 drug manufacturers, distributors and pharmacies, alleging that their negligence, fraud and deceptive marketing practices have contributed to the epidemic.

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Each of the firms reached by The Palm Beach Post for comment about the suit either denied the county's allegations or refused to comment.



Palm Beach County Attorney Denise Nieman, June 7, 2016 (Staff photo/Eliot Kleinberg)

Nieman said her office expects to have a draft ordinance ready for commissioners to consider during their May 1 meeting. Final adoption could come when they meet again on May 15.

“The purpose of the ordinance is to declare the opioid epidemic a public nuisance and to provide a mechanism for Palm Beach County to recover taxpayer’s costs incurred as a result of this epidemic,” Nieman told The Post.

The suit alleges that the costs of the epidemic have been steep and have touched on a variety of areas, including foster care, health care and law enforcement.

Last year, the county set aside \$3 million to combat the epidemic. Some of that money was to boost staffing at the county’s Medical Examiner’s Office, which has been deluged with work from overdose deaths.

Including a listing of the 29 people and firms the county is suing, the county’s filing is 266 pages long.

Two of the firms representing the county, The Ferraro Law Firm of Miami and Napoli Shkolnik of New York, prepared an eight-page summary of the county’s filing for commissioners.

That summary spells out what the county wants: civil penalties, treble damages, compensatory damages, punitive damages and attorneys fees and court costs.

The summary also groups the defendants and lays out the county’s allegations against them.

Distributors and pharmacies are alleged to have “caused injury to the county and its citizens” by committing a variety of misdeeds, including “failing to report suspicious orders as required by law and “dispensing, supplying and/or selling prescription opioids without adequate safeguards to prevent diversion.”

Allegations against a second group of defendants, manufacturers, include:

- “Falsely and fraudulently marketing opioids pain medications as safe and non-addictive.”
- “Failing to perform proper long term studies regarding the effects of their drugs.”
- “Generally, creating a false perception of the safety and efficacy of opioids in the medical community.”

The summary of the lawsuit says defendants violated Medicaid/social welfare law as well as Florida’s Deceptive and Unfair Trade Practices Act. It also accuses the defendants of committing fraud and negligence and unjustly enriching themselves.