

## Keene sues drug companies

By PAUL CUNO-BOOTH Sentinel Staff | April 14, 2018

The city of Keene has sued about a dozen pharmaceutical manufacturers and distributors over their alleged role in causing the opioid-abuse epidemic, joining hundreds of states, counties and cities that have filed similar lawsuits.

The lawsuit claims the drug makers and distributors used deceptive marketing practices to push the use of prescription opioids for chronic pain, despite knowing the medications are highly addictive. The resulting increase in opioid availability, followed by the adoption of heroin by those who first became addicted to prescription drugs, led directly to the nationwide spike in drug-overdose deaths, the city alleges.

Keene — which saw at least nine opioid-related deaths in 2017, according to city officials — is seeking damages for the increased costs city departments have incurred dealing with the opioid crisis, as well as the human and social toll of the spread of addictive drugs.

“The goal is to hold these pharmaceutical companies accountable for what’s been happening in terms of the opioid crisis and how it’s been impacting families, communities and individuals,” said Elizabeth A. Dragon, Keene’s city manager.

Keene, in its lawsuit, claims the opioid crisis costs the city “millions of dollars each year” in municipal services, including “increased law enforcement, educational and community programs, drug support programs, drug take back programs, addiction programs, and providing Naloxone” — an overdose-reversing drug — “to its law enforcement (and) emergency medical providers.”

It alleges the companies distributed deceptive materials about prescription opioids, dispatched sales representatives who extolled the drugs’ benefits to physicians, financed “misleading studies,” enlisted physicians as “key opinion leaders” and supported professional societies and patient groups that advocated the use of opioids to treat chronic pain.

Through those efforts, the lawsuit charges, the companies brought about a “sea change” in the perception of the drugs that “opened the floodgates of opioid use and abuse.”

At-Large City Councilor Randy L. Filiault called the lawsuit “unfortunate but necessary.”

“When you bust a drug dealer, they’re held accountable,” he said. “... The big pharmaceutical companies are nothing more than millionaire drug dealers. They knew what they were doing.”

Dragon said the city bears no financial risk by filing the lawsuit, as the attorneys representing Keene — from the firms Napoli Shkolnik, which is based in New York, and Nixon Vogelmann Slawsky & Simoneau in Manchester — are charging no upfront fees. She said the city has not yet decided how it would use any proceeds it wins in the case.

In emailed statements Friday, representatives of four of the drug manufacturers — Purdue Pharma, Teva Pharmaceuticals, Endo and

Janssen Pharmaceuticals — expressed concern about the opioid crisis and highlighted their efforts to tackle it through education, abuse-deterrent drugs, prescribing guidelines and providing first responders with naloxone. They either denied the lawsuit’s allegations or declined to address them directly.

“Our actions in the marketing and promotion of these medicines were appropriate and responsible,” Jessica Castles Smith, a spokeswoman for Janssen Pharmaceuticals, wrote. Janssen is owned by Johnson & Johnson, another defendant in the suit. “... We are committed to being part of the ongoing dialogue and to doing our part to find ways to address this crisis.”

John Parker, a senior vice president for the Healthcare Distribution Alliance, said the lawsuit was wrong to include three pharmaceutical distributors as defendants. The companies, Cardinal Health, McKesson Corp. and AmerisourceBergen, are among the industry group’s members.

“Given our role, the idea that distributors are responsible for the number of opioid prescriptions written defies common sense and lacks understanding of how the pharmaceutical supply chain actually works and is regulated,” Parker wrote in a statement. “Those bringing lawsuits would be better served addressing the root causes, rather than trying to redirect blame through litigation.”

Keene’s lawsuit, running to more than 250 pages, was filed Wednesday in U.S. District Court in Concord. It was first reported by N.H. Public Radio.

Manchester and Nashua, represented by the same attorneys as Keene, filed nearly identical lawsuits late last year. A federal judge in Ohio is handling those and several hundred other lawsuits brought by local and

state governments over the opioid crisis. The Keene lawsuit will presumably be transferred to that jurisdiction as well.

The judge, Dan Polster, has set a March 2019 trial date for three cases out of Ohio, which could serve to establish the range of possible damages and settlement options for the remaining cases, Reuters reported.

Nearly 64,000 people died of drug overdoses nationwide in 2016, more than 42,000 of them from opioids, according to the Centers for Disease Control and Prevention. The rate of overall drug deaths more than tripled since 1999.

New Hampshire had the third-highest rate of drug-overdose deaths in 2016, according to the CDC. Figures from the N.H. Office of the Chief Medical Examiner show that 486 people died in overdoses that year, with 426 of those deaths caused by heroin, fentanyl or other opioids.

The numbers for 2017 are not final, but as of January, the medical examiner's office projected the final tally would be 485 people dying from drug overdoses.

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