

County to sue opioid manufacturers, distributors

By Nancy Cook Lauer | April 11, 2019

HILO — Hawaii County has jumped into a multi-state class action lawsuit against Big Pharma manufacturers and distributors, seeking compensation for opioid addiction and overdoses on the island.

The County Council on Wednesday voted 6-2 to hire a national law firm in what supporters called a no-risk contingency deal that has the attorneys paid from a portion of proceeds only if they win or settle the case. Otherwise, the county would pay nothing.

Council members said Big Pharma caused the opioid crisis so it should help fix it.

“We’ve got to deal with this devastating effect of their aggressive marketing,” said Hamakua Councilwoman Valerie Poindexter. “They need to start forking some of that money over so we can start addressing some of the devastating effects of what they created.”

Kona Councilwoman Rebecca Villegas agreed.

“This is taking it to next level, holding accountable those who manufactured a poison and sold it as a magic pill,” Villegas said. “It’s accountability for corporate greed ... an opportunity for little to no risk for the county with an opportunity for some reward.”

Voting no were Kohala Councilman Tim Richards and Hilo Councilwoman Sue Lee Loy, who have philosophical issues about blaming manufacturers for improper use of their products. Council Chairman Aaron Chung, also of Hilo, was not in the room for the vote.

“What I’m concerned about is, we’re going for the deep pockets rather than the root of the problem,” Richards said. “What we’re taking about is managing a crisis. ... The end user, the prescriber, the one who held the license, is the one to be held accountable.”

The measure gives Corporation Counsel authority to hire on a contingency basis the New York City-based personal injury law firm Napoli Shkolnik and its local counsel, the Hawaii Accident Law Center from Honolulu.

Details about the potential lawsuit are sketchy, but attorneys will enter Hawaii County in multi-state litigation that's been ongoing for about a year. The lawsuits center on manufacturers and distributors of opioids in particular.

The county's action comes as a settlement agreement last month saw the state of Oklahoma winning \$270 million in litigation against Purdue Pharma and the billionaire Sackler family owners over its OxyContin pain killer.

Representatives for Purdue and Sackler family members said the suit misleadingly blames them for a problem that's far bigger than OxyContin, according to The Associated Press.

Lawsuits claiming drug manufacturers collaborated to downplay the serious risks of opioid addiction have been increasing nationwide.

Distributors have been included in some lawsuits, including Hawaii County's, accused of playing a part in a scheme that "spent millions of dollars developing deceptive materials and advertising, deploying sales representatives, and recruiting physicians to encourage increased prescription rates, which in turn led to increased addiction, loss of life, and costs," according to the county's Resolution 20.

Healthcare Distribution Alliance (HDA), the national trade association representing distributors, including AmerisourceBergen, Cardinal Health and McKesson, takes issue with being included in the mix.

"The misuse and abuse of prescription opioids is a complex public health challenge that requires a collaborative and systemic response that engages all stakeholders," John Parker, senior vice president for Healthcare Distribution Alliance, said in a statement.

"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 added. "Those bringing lawsuits would be better served addressing the root causes, rather than trying to redirect blame through litigation."

Hawaii County has the highest rate of prescribing opioids of any county in the state, at a rate of 66.4 prescriptions per 100 people, double the prescribing rate for the City and County of Honolulu, according to the resolution.

The county could benefit financially from a multi-party lawsuit, similar to money that came to Hawaii and other states from Big Tobacco litigation.

Kauai County has also accepted the deal, but the state attorney general has not, according to county Corporation Counsel Joe Kamelamela. He said that means any compensation would come directly to the county, unlike the similar tobacco settlement agreement that had all the compensation going to the state.

Any compensation from the lawsuit would have to be used in some manner relating to addiction or its effects.

“There’s got to be some nexus,” Kamelamela said.

Such effects won’t be hard to find on this island, said South Kona/Ka‘u Councilwoman Maile David.

“This lawsuit will determine whether it is the manufacturer’s responsibility. ... But I think we have to start somewhere,” David said. “If we win, we will at least have an opportunity to address something that everyone in this room has been touched by in one way or another.”

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