

**US opioid epidemic****Insys case raises risks for drug industry over opioids**

US expected to redouble efforts to pursue criminal prosecutions while others chase civil claims



Insys founder John Kapoor was convicted of bribing doctors to prescribe its fentanyl spray Subsys © AP

Hannah Kuchler in New York MAY 6, 2019

US prosecutors are expected to turn up the heat on drugmakers, distribution companies and doctors after the Insys trial showed a jury was prepared to convict defendants for their role in the opioid epidemic.

Insys founder and chairman [John Kapoor](#) was the first high-ranking pharmaceutical executive to face [serious criminal charges](#) related to the addiction crisis. He faces up to 20 years in prison after being convicted of racketeering conspiracy for bribing doctors to prescribe its fentanyl spray Subsys.

The conviction of Mr Kapoor and four of his colleagues came the week after the US attorney in New York levelled criminal charges against Rochester Drug Cooperative, a large drug distributor, its former chief executive and former chief compliance officer for unlawfully distributing controlled substances.

Just two weeks earlier, the Department of Justice indicted 53 medical professionals in six states for the illegal prescribing and distributing of opioids and for healthcare fraud schemes, the work of a new “prescription opioid strike force” of federal agents and prosecutors in Appalachia.

Harry Nelson, the managing partner of healthcare law firm NelsonHardiman and the author of *The United States of Opioids: A Prescription for Liberating a Nation in Pain*, said he expects the

government to redouble its efforts to pursue criminal prosecutions.

“[The Insys case] is obviously a significant moment in actually getting a criminal conviction against an opioid drugmaker,” he said, adding that he expects prosecutors to “revisit” the case of leadership at [Purdue Pharma](#), the maker of OxyContin that is owned by the Sackler family.

## **The Insys verdict is a harbinger of very bad things to come for the manufacturers, distributors and pharmacy chains involved in the opioid epidemic**

Hunter Shkolnik, partner at Napoli Shkolnik

were showing they would stand up to “very powerful, influential” companies.

“I think a successful prosecution is important. It is a very strong message to everyone out there that the government is taking it seriously and the conduct won’t be tolerated,” he said.

Lawyers in some of the more than 1,900 civil lawsuits related to the addiction crisis celebrated the Insys verdict as a sign they can win the cases, which require a much lower burden of proof than a criminal conviction.

“The message I would take away is: it is difficult to get a criminal conviction period, especially on racketeering . . . so all those companies charged in civil cases of improper conduct related to the opioid crisis should think very, very carefully,” Mr Beckworth said.

Hunter Shkolnik, a partner at Napoli Shkolnik, is representing hundreds of counties in opioid cases, including one of the first to be tried as part of large multi-district litigation starting in October. He said: “The Insys verdict is a harbinger of very bad things to come for the manufacturers, distributors and pharmacy chains involved in the opioid epidemic. The juries are very open to the idea that they caused this problem and they are going to find against them.”

Three executives at Purdue were sentenced to three years probation and 400 hours of community service in 2007, as part of a plea deal where the company paid \$600m and executives paid \$34.5m. But as the costs of the opioid crisis have piled up, many have criticised the sentence as too lenient and are pursuing civil cases against other executives and board members.

Bradley Beckworth, a partner at Nix, Patterson & Roach, who is working for the Oklahoma attorney-general on his case against opioid manufacturers, said “courageous” prosecutors and attorneys-general