NEWS RELEASE

Released by:	Ann M. Rice, Deputy Attorney General
Subject:	Attorney General Files Consumer Protection Action Against Oxycontin Maker Purdue Pharma for Unfair or Deceptive Marketing and Business Practices
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Following an investigation into the marketing of prescription opioids by Purdue Pharma, the makers of OxyContin and other opioid products, Deputy Attorney General Ann M. Rice announced today that the Office has filed a civil lawsuit on behalf of New Hampshire.

Evidence from the two-year long investigation that began in September 2015 led the Attorney General's Office to conclude that Purdue has committed numerous violations of the state's Consumer Protection Act, Medicaid Fraud Act and other state laws and that the company should be subject to a civil enforcement action.

The 100-page civil complaint filed today in the Merrimack County Superior Court alleges that Purdue has engaged in unfair or deceptive marketing practices by, among other things: significantly downplaying the serious risk of addiction posed by OxyContin and other products; overstating the efficacy of chronic opioid therapy by claiming that OxyContin lasts for 12 hours when, for many patients, that is not true; claiming that its product is tamper resistant and thereby nearly impossible to abuse when the product's tamper resistant properties are easily defeated; and by failing to report instances of suspicious dispensing of its products, as required by law.

Last year, the State resolved an investigation of opioid manufacturer Insys for deceptive marketing of its fentanyl drug Subsys.

"Over the past two years, our office has conducted an extensive investigation into Purdue's marketing of OxyContin and its other products in New Hampshire," said Deputy Attorney

General Rice. “New Hampshire continues to experience a severe opioid epidemic. Last year alone nearly 500 overdose deaths occurred—almost ten times more than in 2000. In 2016, the Deputy Administrator of the DEA called New Hampshire ‘ground zero’ of the opioid epidemic. The CDC reports four out of five heroin users started with prescription opioids. To defeat the epidemic, we must stop creating new users and part of that is making sure these highly addictive and dangerous drugs are marketed truthfully and without deception and in such a way as not to minimize addiction risks or overstate benefits to patients.”

The Office’s investigation into Purdue’s marketing activities has been on-going despite Purdue’s refusal to provide documents pursuant to a lawful subpoena issued in July 2015 unless the Office would forego the assistance of outside counsel to review the documents, expected to number in the millions. In late June 2017, the New Hampshire Supreme Court ruled that the Office’s contract with outside counsel was lawful and that Purdue lacked standing to challenge that arrangement.

New Hampshire’s Complaint

The Complaint alleges that Purdue aggressively marketed its opioids to treat chronic pain; that is, pain lasting longer than the normal healing process (often three or more months, as distinguished from acute, cancer or terminal pain). Purdue failed to disclose that there is no credible scientific evidence that opioids are safe or effective for chronic pain, misrepresented evidence regarding long-term use of opioids and misrepresented the drugs’ risks and benefits, including the risk of addiction.

As the Complaint lays out, Purdue sales representatives made personal sales call to more prescribers in New Hampshire than any other maker of branded opioids, accounting for two out of every three such calls in the state. Purdue maintained a sales force in the state of between four to six sales representatives who were each given the goal by the company of seeing six to seven prescribers per day. Based on the data available, from 2013 through 2015, Purdue met with 256 different prescribers in New Hampshire during which the salesperson provided a meal, coffee or other benefits to the prescriber. The overarching messages from these Purdue salespeople were that:

- Opioids are effective in helping patients long-term and improve their ability to function, allowing them to resume their work and their lives; and
- Opioids can be taken safely long-term, even at increasingly higher doses, without an unmanageable risk of addiction, abuse, or overdose.

One New Hampshire prescriber told the Attorney General’s Office that the message she received from a Purdue sales representative was that opioids were “safe, safe, safe, safe.”

As set forth in the Complaint, in 2010, Purdue launched reformulated OxyContin, ostensibly, to make OxyContin more resistant to being crushed for snorting or dissolved for injection. Purdue then petitioned FDA to withdraw its approval of original OxyContin as unsafe for its lack of abuse deterrence, to which the FDA agreed. This had the effect of preventing any generic copies of the original OxyContin which was about to lose patent protection. Over time, Purdue seized

on abuse-deterrence as a marketing advantage and suggested to doctors their abuse deterrence properties made the drug less addictive. Purdue also falsely assured prescribers that OxyContin was nearly impossible to abuse despite knowing that the reformulated OxyContin could be readily manipulated to allow it to be abused.

The Complaint also alleges that Purdue failed to report to New Hampshire authorities illicit or suspicious prescribing of opioids, even as it promoted its "constructive role in the fight against opioid abuse" and "strong record of coordination with law enforcement." Only when specifically requested by the Board of Medicine did Purdue provide the Board with a list of suspicious prescribers, all of whose names were added on the basis of the Board's investigations or media reports, and none from Purdue's own knowledge from its sales data or doctor visits.

As the State alleges, Purdue also:

- Told prescribers that patients who seemed to be seeking or abusing opioids were only experiencing "pseudoaddiction." A Purdue visual aid stated that "illicit drug use and deception" might reflect undertreated pain, rather than addiction. This was especially dangerous because it encouraged physicians with a potentially addicted patient to respond by prescribing more opioids; and
- Emphasized the advantages of Purdue's twice-a-day, 12-hour dosing even though Purdue knew that, for more than half of patients, OxyContin lasted 10 hours or less. Because OxyContin's positioning as a 12-hour drug was important to sales, prescribers were told to increase the dose of OxyContin they prescribed, rather than increase the frequency of dosing, despite the greater risks to patients at higher doses.

Purdue Pharma and Opioid Marketing

In 2007, Purdue and three of its executives pleaded guilty to criminal charges for deceptive conduct and reached a multistate settlement with 26 states – not including New Hampshire – and the District of Columbia, paying $735 million in total. As part of that settlement, Purdue acknowledged that its sales personnel falsely represented that OxyContin "caused less euphoria, had less addiction potential, had less abuse potential, was less likely to be diverted than immediate-release opioids." Purdue also agreed not to misrepresent that the potential for abuse of OxyContin "differs from other Schedule II opioids." As laid out in the Complaint, Purdue has continued to engage in the same deceptive conduct.

The State's Complaint is now pending in the Merrimack County Superior Court.