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## The Opioid Epidemic: Are We Headed Toward a Tipping Point?

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Health care law and policy occupy a prime place in the current news cycle. Much of the attention revolves around the actions or inactions of Congress and the White House, particularly with regard to their impact on the future form and function of the Affordable Care Act. Some significant health care issues can become overshadowed in the sometimes-tumultuous debates surrounding hot button pieces of national legislation. One of these national, recurring, and seemingly growing issues is the problem of opioid abuse and addiction.

This nation's opioid problem has been labeled by many as an epidemic. It has played out across local, state, and national scales. Opioid abuse affects Alabama more than it does most other states, and the City of Birmingham itself has taken action in the fight against the problem. President Trump has, like others, labeled the problem a "national emergency." His Administration has not escaped its touch: the President's pick for "drug czar" withdrew from consideration on October 17th after allegations that he sought to shield big drug distributors—in particular, distributors of opioids—from some of the Drug Enforcement Administration's powers.

It is easy to lose sight of opioid-related developments in light of also important news about cost-sharing reduction subsidies, block grants, and changes to MIPS and the insurance market, but the present and ongoing impact of the opioid epidemic are undeniable. Opioids are often the default treatment for pain in America, but they do not come without risks. Prescribing physicians may find themselves in the trenches in the battle to help prevent opioid abuse, and arming themselves with information on the problem and possible solutions can help them help their patients. The Centers for Disease Control and Prevention (CDC) reports that the number of overdose deaths involving prescription opioids such as oxycodone, hydrocodone, and methadone have more than quadrupled since 1999. The CDC also noted that 91 Americans die each day from opioid overdose. Close to home, the Alabama Department of Public Health's Center for Health Statistics reports a 13% increase in opioid deaths since 2011; more pain pills are prescribed per person in Alabama than in any other state.

This epidemic appears to be gaining ground, but its damage has not gone unnoticed or unopposed. It's worth paying attention to the many efforts, in our state in particular, that have been brought to bear on the crisis. The responses to the crisis have been varied, ranging from policy approaches to education, from legislation to litigation. In August of 2017, Governor of Alabama Kay Ivey created the Alabama Opioid Overdose and Addiction Council to study opioid addiction. The Council will report to the Governor by December 31, 2017 on strategies to address Alabama's ongoing opioid crisis. Such strategies are already being advanced, such as the distribution in September of 600 opioid overdose kits to Alabama rapid responders

Also in August of 2017, the City of Birmingham filed a suit in the Northern District of Alabama against three major national drug distributors, alleging that the distributors sent millions of dollars' worth of opioids into Birmingham while failing in their obligation to report suspicious drug shipments. As will be discussed further below, this case is one among many several cases.

Then, in September, Alabama Attorney General Steve Marshall announced that he would be joining with the Attorneys General of 40 other states in order to address the opioid crisis. In particular, the bipartisan group of State AGs will investigate whether drug manufacturers and distributors are violating any laws as they market and distribute opioids. The group has issued subpoenas and demanded information from several manufacturers and distributors—including the three distributors which are the focus of the City of Birmingham’s lawsuit.

Even commercial insurers have gotten in on initiatives to address the opioid crisis. Blue Cross Blue Shield of Alabama (BCBSAL) is partnering with local and state agencies to increase public awareness of opioid risk; supporting proper prescribing of opioids by educating primary care physicians; offering medication-assisted treatment for BCBSAL members; and supporting public outreach efforts to prevent opioid use and abuse. The history of the opioid epidemic suggests that the most effective responses will come from various categories of actors (distributors, prescribers, and patients) working together towards the same ends. Multi-focused approaches like those of BCBSAL recognize that no one solution will fix this problem.

As noted above, the City of Birmingham’s lawsuit is not alone. Counties and cities across the country have been filing suits against drug companies involved in the opioid supply chain, and this trend shows no sign of ceasing. One law firm recently moved to transfer 66 lawsuits, filed in various federal courts around the nation, leading to expectations that consolidation into multi-district litigation (MDL) may be around the corner. As many of the suits involve the same defendants and the same allegations (generally, that the drug companies have understated the addictive nature of the drugs for the sake of profit, and/or that they have failed in reporting obligations), consolidation of at least some of the suits may make sense. Regardless, staying abreast of the proliferation of such cases on the national scene is valuable, as the resolution of these cases may shift the opioid-prescription landscape.

The approaches to confronting the opioid epidemic discussed above are only a selection of the many steps taken at both the state and federal levels. The opioid crisis shows little sign of receding, while at the same time efforts addressing the problem have ramped up. It may be that we are nearing the point of critical mass at which some of these efforts gain significant traction. Whether the problem at large is solved, however, health care professionals’ awareness of this crisis and of the resources and initiatives available to address it can only help their patients.



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