

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE RESOLUTION

No. 344 Session of 2019

INTRODUCED BY CRUZ, DIGIROLAMO, YOUNGBLOOD, HOHENSTEIN, BURGOS, CALTAGIRONE, SCHLOSSBERG, NEILSON, MURT, MADDEN, STRUZZI, READSHAW, GREGORY AND TOOHIL, JUNE 3, 2019

AS REPORTED FROM COMMITTEE ON HUMAN SERVICES, HOUSE OF REPRESENTATIVES, AS AMENDED, JANUARY 21, 2020

A RESOLUTION

1 ~~Urging the Office of Attorney General to file lawsuits against~~ <--
2 ~~pharmaceutical companies, distributors and manufacturers for~~
3 ~~the practices that caused or contributed to the opioid crisis~~
4 ~~in this Commonwealth.~~

5 URGING PHARMACEUTICAL COMPANIES, MANUFACTURERS AND DISTRIBUTORS <--
6 OF PRESCRIPTION OPIOID DRUGS TO FULLY COOPERATE WITH THE
7 PENNSYLVANIA OFFICE OF ATTORNEY GENERAL IN REACHING FINANCIAL
8 SETTLEMENTS AND LEGAL RESOLUTIONS THAT REFLECT THE SEVERE,
9 IRREVERSIBLE HARM SUFFERED BY TENS OF THOUSANDS OF
10 PENNSYLVANIA FAMILIES WHO HAVE LOST LOVED ONES TO THE OPIOID
11 CRISIS AND TO SUBSTANCE USE DISORDER.

12 WHEREAS, Opioids are a classification of drugs derived from
13 or are a synthetic version of opium and are designed to reduce
14 pain; and

15 WHEREAS, Examples of common opioids include prescription
16 opioids, such as hydrocodone, methadone, morphine, oxycodone and <--
17 ~~the,~~ synthetic opioid OPIOIDS, INCLUDING fentanyl and <--
18 CARFENTANYL, AND illicit opioids such as heroin; and <--

19 WHEREAS, The introduction of pain as the fifth vital sign in
20 medicine and the increased availability of prescription opioids
21 in the late twentieth century led to an increased population

1 using opioids and potentially developing substance use
2 disorders; and

3 WHEREAS, According to the Centers for Disease Control and
4 Prevention (CDC), the number of prescription opioids dispensed
5 to Americans quadrupled between 1999 and 2014, with primary care
6 providers accounting for half of the opioids prescribed; and

7 WHEREAS, Americans represent only 4.6% of the world's
8 population but consume 80% of the world's opioids and 99% of the
9 global hydrocodone supply; and

10 WHEREAS, The most recent data available for this Commonwealth
11 showed almost 70 prescriptions for opioid medications per 100
12 individuals were written by healthcare practitioners in 2016;
13 and

14 WHEREAS, The two most commonly prescribed opioid medications
15 in this Commonwealth are oxycodone, with more than 2.4 million
16 prescriptions filled, and hydrocodone, with more than 1.6
17 million prescriptions filled in 2017; and

18 WHEREAS, Nearly 80% of individuals who use heroin have
19 reported that they abused or misused prescription opioids prior
20 to using heroin; and

21 WHEREAS, The CDC has declared that the United States is
22 experiencing an opioid-induced "public health epidemic"; and

23 WHEREAS, The public health epidemic due to the opioid crisis
24 knows no boundaries nor distinctions, impacting families of all
25 ages, races and walks of life; and

26 WHEREAS, The rate of incidence of Neonatal Abstinence
27 Syndrome (NAS), a complex condition where a baby is born drug
28 dependent due to the mother's use of drugs, such as opioids,
29 during pregnancy, has increased 1,000% in this Commonwealth over
30 the past two decades; and

1 WHEREAS, Opioids are the leading cause of accidental deaths
2 in the United States, surpassing deaths by car accidents; and

3 WHEREAS, The CDC has reported that a record 47,600
4 individuals died after an opioid overdose in 2017; and

5 WHEREAS, A report from the Drug Enforcement Administration
6 (DEA) in 2017 identified 5,456 drug-related overdose deaths in
7 this Commonwealth, representing a rate of 43 deaths per 100,000,
8 far exceeding the national average of 22 per 100,000; and

9 WHEREAS, As of 2017, individuals 25-54 years of age had the
10 highest rate of overdose deaths and 71-78% of individuals in
11 this age group were employed; and

12 WHEREAS, The societal costs to the nation associated with the
13 opioid crisis are staggering, amounting to over \$78 billion
14 annually according to the CDC; and

15 WHEREAS, The financial toll of the crisis due to health care
16 spending, ~~addiction~~ SUBSTANCE USE DISORDER treatment, criminal <--
17 justice and lost productivity has overwhelmed the limited
18 resources of the Commonwealth; and

19 WHEREAS, The cost to the Federal Government and to ~~the state~~ <--
20 governments are estimated to total \$37.8 billion in lost tax
21 revenue due to opioid-related employment loss; and

22 WHEREAS, Between 2000 and 2016, research conducted by the
23 Pennsylvania State University found that this Commonwealth was
24 one of the states hardest hit by opioid-related employment loss,
25 with about \$638.2 million lost in income and sales tax; and

26 WHEREAS, This Commonwealth is currently in the midst of its
27 worst public health ~~crisis~~ EPIDEMIC due to the opioid ~~epidemic~~ <--
28 CRISIS; and <--

29 WHEREAS, Leaders of this Commonwealth have been working
30 tirelessly to address the opioid crisis and help the thousands

1 of individuals, families and communities who have been and
2 continue to be affected; and

3 WHEREAS, The Department of Health first provided prescribing
4 guidelines for medical professionals relating to PRESCRIPTION <--
5 opioids in 2014 and revises these guidelines as new scientific
6 data becomes available; and

7 WHEREAS, Pennsylvania enacted the Achieving Better Care by
8 Monitoring All Prescriptions Program (ABC-MAP) Act on October
9 27, 2014 to address the rising opioid crisis by requiring the
10 Department of Health to run the Prescription Drug Monitoring
11 Program (PDMP); and

12 WHEREAS, The PDMP began collecting Schedule II-V controlled
13 substance dispensing information in June 2016 and currently
14 collects around 1.7 million records per month and shares data
15 with 16 other states and Washington, D.C.; and

16 WHEREAS, In April 2015, the Physician General signed two
17 standing order prescriptions for naloxone, one for first
18 responders and one for the general public to ensure that all
19 residents can obtain life-saving medication when an opioid
20 overdose is occurring; and

21 WHEREAS, Individuals addicted to opioids often experience
22 multiple overdoses in the course of their drug use and
23 widespread naloxone availability has resulted in many lives
24 saved; and

25 WHEREAS, Law enforcement reported to the Department of Drug
26 and Alcohol Programs that they have saved more than 6,400 lives
27 with naloxone through December 2017; and

28 WHEREAS, In June 2017, Attorney General Josh Shapiro
29 announced that a bipartisan investigation to evaluate whether
30 pharmaceutical manufacturers have engaged in unlawful practices

1 in the marketing and sale of PRESCRIPTION opioids was being <--
2 conducted with 41 other state Attorneys General; and

3 WHEREAS, The opioid ~~epidemic~~ CRISIS was declared a public <--
4 health emergency in October 2017 by the President of the United
5 States; and

6 WHEREAS, A disaster emergency due to the opioid crisis was
7 declared by the Governor in January 2018 and has since been
8 renewed ~~five~~ EIGHT times; and <--

9 WHEREAS, The emergency declaration established an Opioid
10 Command Center to enhance coordination and data collection to
11 bolster State and local response and to improve tools for
12 families, first responders and others to save lives and to
13 remove various barriers to speed up and expand access to
14 treatment; and

15 WHEREAS, Despite the great strides this Commonwealth has
16 taken in addressing the opioid crisis, it is clear that more
17 needs to be done, as tens of thousands of Pennsylvanians
18 continue to lose their lives each year; and

19 WHEREAS, Holding individuals AND COMPANIES who PRODUCE, <--
20 supply AND DISTRIBUTE drugs accountable for harm is an important <--
21 deterrent ~~to co-conspirators~~; and <--

22 WHEREAS, Section 2506 of Title 18 of the Pennsylvania
23 Consolidated Statutes states that a person commits a first
24 degree felony if one intentionally administers, dispenses,
25 delivers, gives, prescribes, sells or distributes any controlled
26 substance or counterfeit controlled substance in violation of
27 certain sections of The Controlled Substance, Drug, Device and
28 Cosmetic Act, and another person dies as a result; and

29 WHEREAS, The equivalent Federal statute is ~~section 841 of~~ <--
30 ~~Title 18 of the United States Code~~ CODIFIED AT 18 U.S.C. § 842; <--

1 and

2 WHEREAS, It has been reported that various pharmaceutical
3 companies, distributors and manufacturers OF PRESCRIPTION <--
4 OPIOIDS have been investigated and fined by the DEA for failing
5 to operate mandatory internal oversight systems in good faith,
6 report suspicious orders to the DEA and halt the shipment of
7 suspicious controlled substance orders once discovered; and

8 WHEREAS, Additional various Federal and State statutes that
9 may be relevant include the Controlled Substances Act, the
10 Unfair Trade Practices and Consumer Protection Law and common
11 law negligence and fraud; and

12 WHEREAS, ~~Certain~~ IT WAS REPORTED THAT DURING THE LAST DECADE, <--
13 CERTAIN pharmaceutical companies have spent ~~and continue to~~ <--
14 ~~spend~~ hundreds of millions of dollars to defraud or mislead
15 healthcare professionals, patients and the public about the
16 addictiveness of powerful prescription opioid drugs; and

17 WHEREAS, These pharmaceutical companies used not only
18 misleading, but fake scientific charts and data to convince the
19 medical community to increasingly prescribe opioid drugs; and

20 WHEREAS, The deceptive marketing practices included the
21 downplaying of the serious risk of addiction, promoting the
22 concept of "pseudoaddiction" and advocating that the signs of
23 addiction should be treated with more opioids, claiming that
24 opioid dependence and withdrawal are easily managed and denying
25 the risks of higher opioid dosages; and

26 WHEREAS, Through such questionable practices and the sale of
27 ~~opioid medications~~ PRESCRIPTION OPIOIDS, pharmaceutical <--
28 companies, MANUFACTURERS AND distributors ~~and manufacturers have~~ <--
29 earned and, IN SOME CASES, continue to earn billions of dollars <--
30 in profits; and

1 WHEREAS, Opioid sales peaked at \$8 billion in revenue for
2 drug companies in 2015; and

3 ~~WHEREAS, The Associated Press and the Center for Public Integrity published an investigation outlining how certain~~ <--
4 ~~pharmaceutical companies and their allies have adopted a 50-~~
5 ~~state strategy that includes hundreds of lobbyists and nearly \$1-~~
6 ~~billion spent on lobbying and campaign contributions from 2006-~~
7 ~~through 2015 to help kill or weaken measures aimed at stemming~~
8 ~~the tide of prescription opioids; and~~

10 WHEREAS, Although some pharmaceutical companies,
11 MANUFACTURERS AND distributors ~~and manufacturers~~ OF PRESCRIPTION <--
12 OPIOIDS announced in 2018 that they would ~~be ending~~ END the <--
13 practice of MARKETING AND promoting ~~opioid medications~~ THE USE <--
14 OF PRESCRIPTION OPIOIDS to ~~prescribers through~~ HEALTH CARE <--
15 PROVIDERS BY sales representatives, ~~this process~~ THE AGGRESSIVE <--
16 MARKETING OF PRESCRIPTION OPIOIDS did not ~~occur~~ CEASE until <--
17 after large profits were made, an opioid crisis was created and
18 lawsuits were filed; and

19 WHEREAS, States have historically filed lawsuits against
20 industries that engaged in illegal business practices, such as
21 the tobacco industry in the 1990s, in order to protect THE <--
22 HEALTH, SAFETY AND GENERAL WELFARE OF their residents; and

23 WHEREAS, By pursuing legal action against the pharmaceutical
24 companies, MANUFACTURERS AND distributors ~~and manufacturers,~~ OF <--
25 PRESCRIPTION OPIOIDS, the Commonwealth is attempting to hold
26 those that had and continue to have a significant role in the
27 creation of the opioid crisis responsible; and

28 WHEREAS, Lawsuits against pharmaceutical companies ~~and,~~ <--
29 manufacturers AND DISTRIBUTORS OF PRESCRIPTION DRUGS for their <--
30 role in the opioid ~~epidemic~~ CRISIS are not without legal <--

1 precedent; and

2 WHEREAS, In 2007, Purdue Pharma, a large pharmaceutical
3 company and the maker of the opioid OxyContin pled guilty to
4 "misbranding," a felony charge that they misled regulators,
5 doctors and patients about the drug's risk of addiction and its
6 potential to be abused; and

7 WHEREAS, More than 1,600 lawsuits filed by counties,
8 municipalities, hospitals and others have been consolidated in
9 Federal court into a case known as the National Prescription
10 Opiate Litigation, ~~and is currently pending~~ against dozens of <--
11 pharmaceutical companies, MANUFACTURERS AND distributors ~~and~~ <--
12 ~~manufacturers~~ OF PRESCRIPTION OPIOIDS in Ohio; and <--

13 WHEREAS, Additionally, almost 40 state Attorneys General have
14 filed lawsuits to hold ~~those who~~ THE PHARMACEUTICAL COMPANIES, <--
15 MANUFACTURERS AND DISTRIBUTORS THAT created or contributed to
16 the opioid crisis responsible; and

17 WHEREAS, Some of the state Attorneys General filed these
18 lawsuits on behalf of the residents of their states despite
19 continuing to collaborate with the Pennsylvania Office of
20 Attorney General on the important bipartisan investigation to
21 evaluate whether pharmaceutical manufacturers have engaged in
22 unlawful practices in the marketing and sale of PRESCRIPTION <--
23 opioids; and

24 ~~WHEREAS, On March 26, 2019, Purdue Pharma agreed to pay \$270~~ <--
25 ~~million in an opioid settlement with the state of Oklahoma in~~
26 ~~the first of almost 2,000 lawsuits that are pending against this~~
27 ~~and other pharmaceutical companies; and~~

28 ~~WHEREAS, Purdue Pharma reportedly is beginning to explore the~~
29 ~~possibility of filing Chapter 11 bankruptcy, which could~~
30 ~~temporarily insulate one of the main contributors and profiteers~~

1 ~~of the opioid epidemic from settlements or large judgments;~~
2 ~~therefore be it~~

3 ~~RESOLVED, That the House of Representatives, though~~
4 ~~applauding the work of the Office of Attorney General in~~
5 ~~combating the opioid crisis in Pennsylvania through its~~
6 ~~bipartisan and multistate investigation, recognize that an~~
7 ~~urgent need exists for the Commonwealth to do more; and be it~~
8 ~~further~~

9 ~~RESOLVED, That the House of Representatives urge the Office~~
10 ~~of Attorney General as the top law enforcement officer to file~~
11 ~~lawsuits against the pharmaceutical companies, distributors and~~
12 ~~manufacturers for their practices that caused or contributed to~~
13 ~~the opioid crisis in this Commonwealth; and be it further~~

14 ~~RESOLVED, That the House of Representatives urge the Office~~
15 ~~of Attorney General to not only pursue civil litigation, but all~~
16 ~~legal avenues, including wrongful death suits on behalf of the~~
17 ~~tens of thousands of Pennsylvania families who have lost loved~~
18 ~~ones to the opioid epidemic.~~

19 WHEREAS, IN 2019, THE PENNSYLVANIA OFFICE OF ATTORNEY GENERAL <--
20 FILED TWO LAWSUITS AGAINST PURDUE PHARMA, ACCUSING THE COMPANY
21 AND ITS OWNERS OF A MULTIFACETED, ILLEGAL EFFORT TO MARKET
22 OXYCONTIN IN THIS COMMONWEALTH; AND

23 WHEREAS, PURDUE PHARMA FILED FOR CHAPTER 11 BANKRUPTCY IN
24 SEPTEMBER 2019 AS PART OF A TENTATIVE DEAL TO SETTLE MORE THAN
25 2,000 OPIOID LAWSUITS FILED BY STATES, LOCAL GOVERNMENTS AND
26 NATIVE AMERICAN TRIBES; AND

27 WHEREAS, A COLLABORATIVE 41-STATE INVESTIGATION LED BY THE
28 PENNSYLVANIA OFFICE OF ATTORNEY GENERAL RESULTED IN A \$48
29 BILLION AGREEMENT IN PRINCIPLE FROM CARDINAL HEALTH, MCKESSON,
30 AMERISOURCEBERGEN, JOHNSON & JOHNSON AND TEVA FOR THEIR ROLES IN

1 FUELING THE OPIOID CRISIS; AND

2 WHEREAS, THE COMMONWEALTH WILL RECEIVE MORE THAN \$53 MILLION
3 AS PART OF A NATIONWIDE SETTLEMENT AGAINST RECKITT BENCKISER
4 GROUP FOR THE IMPROPER MARKETING OF SUBOXONE AND PRACTICES TO
5 DEFRAUD MEDICAID SYSTEMS IN THIS COMMONWEALTH; THEREFORE BE IT

6 RESOLVED, THAT THE HOUSE OF REPRESENTATIVES URGE THE
7 PHARMACEUTICAL COMPANIES, MANUFACTURERS AND DISTRIBUTORS OF
8 PRESCRIPTION OPIOID DRUGS TO FULLY COOPERATE WITH THE
9 PENNSYLVANIA OFFICE OF ATTORNEY GENERAL IN REACHING FINANCIAL
10 SETTLEMENTS AND LEGAL RESOLUTIONS THAT REFLECT THE SEVERE,
11 IRREVERSIBLE HARM SUFFERED BY TENS OF THOUSANDS OF PENNSYLVANIA
12 FAMILIES WHO HAVE LOST LOVED ONES TO THE OPIOID CRISIS AND TO
13 SUBSTANCE USE DISORDER; AND BE IT FURTHER

14 RESOLVED, THAT THE HOUSE OF REPRESENTATIVES APPLAUD THE WORK
15 OF THE PENNSYLVANIA OFFICE OF ATTORNEY GENERAL IN COMBATING THE
16 OPIOID CRISIS IN PENNSYLVANIA THROUGH ITS ONGOING BIPARTISAN,
17 MULTISTATE INVESTIGATION AND LITIGATION IN PURSUIT OF JUSTICE
18 FOR THE INDIVIDUALS AND FAMILIES ACROSS THIS COMMONWEALTH THAT
19 HAVE BEEN AFFECTED; AND BE IT FURTHER

20 RESOLVED, THAT THE HOUSE OF REPRESENTATIVES URGE THE
21 PENNSYLVANIA OFFICE OF ATTORNEY GENERAL, AS THE TOP LAW
22 ENFORCEMENT OFFICER IN THIS COMMONWEALTH, TO CONTINUE TO PURSUE
23 ALL AVAILABLE LEGAL REMEDIES TO HOLD THE PHARMACEUTICAL
24 COMPANIES, MANUFACTURERS AND DISTRIBUTORS OF PRESCRIPTION
25 OPIOIDS ACCOUNTABLE FOR THEIR PRACTICES THAT CAUSED OR
26 CONTRIBUTED TO THE OPIOID CRISIS IN THIS COMMONWEALTH.