

# Drug epidemic: One small-town mayor takes on pill distributors

April 7 2017, by Michael Virtanen

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In this once prosperous West Virginia coal town of 1,900 people, residents say it's not just the decades-long demise of mining that hurt the community—it's the scourge of drug use that came with it.

Here, almost everyone knows someone who became addicted. And the Appalachian town is fighting back by suing some of the biggest U.S. drug distributors, hoping to make them pay for the damage done by addiction. Lawyers say growing pushback by communities, many in West Virginia, could ultimately rival the scope of litigation against tobacco companies over smoking.

As coal workers lost jobs and faced few employment options, opioid addiction rose. In 2015, federal figures show, West Virginia had the nation's highest rate of overdose deaths from opioids, a class of narcotics that includes heroin but also pain relievers such as oxycodone legally available by prescription. In 2015 and 2016, the state had 1,500 drug overdoses—at least 32 of them in McDowell County, whose seat is Welch.

"We just feel now is maybe the time to attack these drug companies to make them responsible for what they're sending out," said Welch Mayor Reba Honacker, who had retired from her career as a florist before her election.

In February, she sued five of the nation's largest prescription drug distributors on behalf of her city, arguing their opioids saturated the

community at a heavy price in added emergency, rehabilitation, police, court and jail services.

"Opioids, once a niche drug, are now the most prescribed class of drugs—more than blood pressure, cholesterol or anxiety drugs," the lawsuit says, noting drug companies' billions in annual revenue.

Honacker's attorney Harry Bell said a Charleston Gazette-Mail investigation ([bit.ly/2hfEa9l](http://bit.ly/2hfEa9l)) last year shows that opioid shipments to West Virginia clearly have exceeded need—more than 400 pills for each of the 1.8 million people in the state over a six-year period.

"I suspect there are numerous communities which have drug problems in this country with opioids," Bell said. "But how many of those communities are ... victims of a true massive dumping of prescription opioids in numbers that have no relation to reality?"

Since that report, 11 West Virginia municipalities—including the city of Huntington and Kanawha County, where the capital, Charleston, is located—have filed or announced lawsuits.

McDowell County Sheriff Martin West said the attorney general's office advised criminal charges weren't possible. The county sued in federal court instead.

In a similar case, Everett, Washington, sued Purdue Pharma in January, saying the maker of OxyContin knew some of the pain medication was being funneled by the black market into the city but did nothing to stop that. Purdue argued for dismissal, saying there was no basis in law for a municipality to sue a drug manufacturer.

Fulton County, Georgia, filed a similar suit against three distributors in state court in 2015, but dropped it after being briefed on measures to

prevent illicit diversion, said Ellen Barry, a spokeswoman for drug distributor Cardinal Health.

Bell said he was unaware of other states with similar suits.

Welch's lawsuit in state court seeks unspecified damages from drug distributors McKesson, AmerisourceBergen, Cardinal Health, Miami-Luken, and H.D. Smith, and from a prescribing physician.

All five companies have denied wrongdoing but paid money to settle similar lawsuits by the state attorney general or the Drug Enforcement Administration.

So far, the state attorney general has won \$47 million in state settlements from 12 opioid distributors. In January, San Francisco-based McKesson Corp. agreed to pay \$150 million to settle federal allegations it failed to detect and report suspiciously large pharmacy orders of addictive painkillers, including shipments to West Virginia.

In 2006, a pharmacy in nearby Kermit received 3.2 million hydrocodone pills, according to court records. The town had 400 people. The pharmacy owner was sentenced to six months in prison for illegally dispensing painkillers. The owner of a now-closed pain clinic and two doctors there went to prison in 2010 for illegal prescriptions. Kermit recently sued the five distributors.

McKesson, AmerisourceBergen and Miami-Luken didn't reply to Associated Press queries. H.D. Smith spokeswoman Sarah Kinkade said the company has the "stringent protection" of the health care supply chain.

Cardinal responded: "We believe that these copycat lawsuits do not advance any of the hard work needed to solve the opioid abuse

crisis—an epidemic driven by addiction, demand and the diversion of medications for illegitimate use."

McKesson, AmerisourceBergen and Cardinal all have asked a federal judge to dismiss McDowell County's suit, arguing it lacks legal standing to bring such claims and that they ship drugs only to federally and state-licensed pharmacies.

"Many patients in the United States have a legitimate medical need for opioids, and, for that reason, federal health officials over the past two decades recommended increased treatment of acute and chronic pain and year after year substantially increased the quota for hydrocodone and oxycodone that could be manufactured, distributed, and prescribed," Cardinal's attorney wrote. The Drug Enforcement Administration assigns quotas to manufacturers.

Ethan Nadelmann, of the nonprofit watchdog Drug Policy Alliance, said that unlike tobacco sold directly to consumers, doctors and pharmacists are supposed to safeguard drug distribution.

"Presumably the distributors are sending drugs there because they're ordered by pharmacies," said Nadelmann. "Maybe it's just the distributors are seen as deep pockets."

At a recent town hall meeting in Welch, a few dozen of the 250 people present raised hands when asked if they'd lost a loved one to drugs. "A friend of mine just lost his daughter to that," said Rob Ofsa, a retired teacher. "The drug companies have ruined us."

If the suit is successful, Honacker would like to use the money to establish a local rehabilitation center to help addicts.

"Our people, if they want help, and we have many that do want help,

they tend to travel miles and miles," she said.

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