

Medical and Healthcare Ethics in Regards to Opioid Scandals in United States

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Sports Ethics, LLC

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1. Rite Aid Opioid Settlement

Rite Aid, one of the country's largest pharmacy chains, has recently filed for bankruptcy and is now several billions of dollars in debt amid opioid lawsuits, of which there are more than one thousand pending.

Plaintiffs claim that Rite Aid helped create the current opioid crisis in the United States since the company (as well as the opioid drugmakers) downplayed the potential risks of these pain pills while also failing to prevent them from being dispersed in the illegal drug market.

Timeline

According to the United States Justice Department, from May 2014 to June 2019, Rite Aid "filled at least hundreds of thousands of unlawful prescriptions for controlled substances that were medically unnecessary, lacked a medically accepted indication, or were not issued in the usual course of professional practice."

In October 2019, Rite Aid's misconduct was brought to light by whistleblowers Andrew White, Mark Rosenberg, and Ann Wegelin, who had all previously worked for Rite Aid in different pharmacies. The three of them filed a lawsuit against their employer under the False Claims Act. The Act allows the United States to take control of the lawsuit from private parties, which it has now done.

In March 2023, the Justice Department filed a federal lawsuit, brought about under the False Claims Act and the Controlled Substances Act, claiming that Rite Aid deliberately filled hundreds of thousands of unlawful prescriptions on opioids and also ignored red flags during the process.

Authorities reported that Rite Aid's Government Affairs Department knowingly directed its employees to delete internal notes about dubious prescription activities like "writing excessive dose[s] for oxycodone." Some of the illegal prescriptions issued include the "trinity" combination of an opioid (or muscle relaxer), oxycodone, and fentanyl.

As of October 2023, more than 200 locations have already been closed with many more to come. Right now there are still 2,100 Rite Aid locations still open for business in 17 states. Rite Aid has around 45,000 employees. Of this number, 6,100 are pharmacists.

What brought about this behavior?

Several factors come into play. Firstly, Rite Aid's sales have been decreasing as of late since it is in direct competition with other large companies in the pharmacy business such as CVS, Walmart, and Walgreens.

Second, it should be understood that opioid pain pills are highly addictive, which also makes them hugely profitable. This is not only for pharmacy chains but drug-making and drug-distributor companies as well.

Due to opioid litigation, Rite Aid and other drug-making and drug-distributor companies have filed for bankruptcy and reached settlements of billions of dollars each. These companies include Mallinckrodt (which had its second bankruptcy in August 2023), Endo International,

Purdue Pharma, and Insys Therapeutics. Total settlements from these companies have reached more than \$50 billion.

Back in 2022, Rite Aid itself made a \$30 million settlement towards the lawsuits claiming it oversupplied prescription opioids. Right now it is not known exactly how the bankruptcy will affect this settlement, not to mention its current \$3.3 billion debt.

Where does Rite Aid stand now?

As of October 2023, Rite Aid has around \$134 million in cash, \$524 million in liquidity and can borrow up to \$390 million. However, Rite Aid itself has suffered about \$2.9 billion in losses in the past six years.

Filing for Chapter 11 with the U.S. Bankruptcy Court in New Jersey would provide Rite Aid with \$3.45 billion worth of available financing which would help cover its pending lawsuits as well as its \$3.3 billion debt. The bankruptcy would also pause all of the legal cases against Rite Aid and allow the business to consolidate and resolve them all in one place.

The company is now in the middle of a financial restructuring plan that will help get rid of some of its debt and place it in a position for future growth. This restructuring will "significantly reduce the company's debt" and also "resolve litigation claims in an equitable manner," Rite Aid said.

Due to this sale of opioids across the country, the Center for Disease Control has found more than 112,000 deaths due to drugs in the past 12 months. Because of the bankruptcy, it is not clear whether the people harmed by Rite Aid will receive any compensation.

Rite Aid denies the allegations that it filled unlawful prescriptions for pain medicine and has asked the court to dismiss the lawsuit from the Justice Department.

However, Attorney General Merrick B. Garland claims the Justice Department is "using every tool at [its] disposal to confront the opioid epidemic that is killing Americans and shattering communities across the country. That includes holding corporations, like Rite Aid, accountable for knowingly filling unlawful prescriptions for controlled substances."

2. McKinsey and Company Opioid Scandal

In September 2023, McKinsey and Company, a respected market research and consulting firm, agreed to pay out \$230 million in settlements.

The lawsuits against them come from hundreds of U.S. school districts, local governments, and Native American tribes which alleged that the company helped fuel an opioid crisis. At present, \$207 million of the settlement will go to counties and municipalities while the other \$23 million will go to public school districts.

Lawsuits against McKinsey accuse the company of helping drug manufacturers like Purdue Pharma, a bankrupt OxyContin company, create misleading and dubious marketing plans in order to boost the sales of painkillers.

This is not the first time McKinsey and Company had to settle due to opioid lawsuits. In 2021, McKinsey agreed to a \$537 million settlement it made with 47 states, the District of Columbia, and five U.S. territories for a similar role it played in “turbocharging” opioid sales.

Investigation

In 2021, several documents were discovered showing how McKinsey advised Purdue Pharma to continue selling high-dose opioid pills even after the drug company had pleaded guilty to misleading doctors and regulators about the risks of OxyContin back in 2007.

An investigation by the Massachusetts attorney general said that “thousands and thousands of documents and emails” were discovered that “told the story of McKinsey’s wrongdoing.” McKinsey did not admit to any wrongdoing at that time, but it did agree to court-ordered restrictions of its work with addictive drugs.

\$478 million of the \$573 million settlement was to go towards prevention and recovery programs as well as opioid treatment for victims.

Marketing Research Timeline

McKinsey had completed 75 contracts with Purdue Pharma and its affiliates between 2004 and 2019. In 2008, McKinsey had more than 20 of its employees consulting for the FDA on problems related to the opioid crisis and how to enhance drug safety *while at the same time* consulting for opioid distributors and makers like Purdue Pharma.

McKinsey told Purdue that it could “band together” with other opioid distributors and manufacturers to protect themselves against strict treatment from the Food and Drug Administration.

In 2009, McKinsey was hired by Purdue to increase the “brand loyalty” of its OxyContin product. The market research team recommended targeting specific patients, especially those new to opioids.

In 2013, in an attempt to “turbocharge” sales, McKinsey’s market team recommended several courses of action to Purdue, including pushing higher doses of OxyContin to pharmacies and focusing its sales calls on prescribers who were already buying opioids at high volume.

Turbocharging Sales

According to a lawsuit filed by Massachusetts Attorney General Maura Healey in 2022, McKinsey partners had created an “Executive Oversight Team and Project Management Office” that reported directly to Purdue’s Executive Committee. This oversight team conducted market research and attended ride-alongs with Purdue’s marketing and sales agents responsible for promoting OxyContin.

The lawsuit states: *“Early in their relationship, McKinsey advised Purdue that it could increase OxyContin sales through physician targeting and specific messaging to prescribers. These McKinsey strategies formed the pillars of Purdue’s sales tactics for the next fifteen years.”*

Furthermore, In April 2022, Gillian Feiner, a Senior Enforcement Counsel for the Attorney General's Office in Massachusetts, participated in a 2022 House Committee hearing on how McKinsey advised Purdue in terms of marketing strategy.

She states: *“McKinsey had multiple meetings with Purdue in produce offices, fancy restaurants, and with the settlers. They told them the way to maintain a high level of OxyContin sales was to turbocharge the sales engine, motivate the sales force, give them target lists with the highest prescribers in the country, and have sales reps visit them relentlessly and incentivize the sales reps, and to stick to their call plans... That is what turbocharging was, to keep the sale of OxyContin going.”*

During the Purdue Pharma bankruptcy court hearing, a lawyer representing the Sackler family (which had originally bought Purdue Pharma back in 1952) read a 2013 memorandum from McKinsey to Purdue. The memorandum claimed that all of McKinsey’s recommendations to Purdue were “industry best practices” and that “these best practices can be adapted for Purdue and rolled out quickly.” He added that Purdue naturally took McKinsey at its word since it was such a reputable company.

In September 2021, Purdue Pharma filed for Chapter 11 bankruptcy. In October of the same year, the company pleaded guilty to federal charges over the marketing of its OxyContin and agreed to pay \$8.3 billion in settlements.

Current State of Things

As of September 2023, McKinsey has not admitted to any wrongdoing and is still convinced that all work done in the past was lawful.

According to the National Association of Attorneys General, more than 3,000 local and state governments have targeted companies like McKinsey and several opioid drugmakers and distributors. The lawsuits claim that these companies downplayed the risk of the distribution of opioid painkillers and ignored red flags that the drugs were being illegally trafficked.

Litigation among these drug companies and major drug makers has resulted in more than \$51 billion in settlements. According to the Centers for Disease Control, from 1999 to 2021, nearly 645,000 people have died due to opioid overdose in the United States, whether through prescription or illegal obtainment.