

The background image shows a yellow plastic pill bottle lying on its side, with a large pile of various pills and capsules spilled out. The pills are in many different colors (white, pink, orange, blue, green, red) and shapes (round, oval, capsule). The red banner is at the top of the page, containing the title and author information in white text.

Department of Justice Announces Task Force to Combat Prescription Opioid Crisis

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Department of Justice Announces Task Force to Combat Prescription Opioid Crisis

Written by D. Michael Crites, Justin M. Burns – 3/5/18

Last week, United States Attorney General Sessions announced the creation of the Department of Justice Prescription Interdiction & Litigation (PIL) Task Force to combat the prescription opioid crisis. According to the Department of Justice (Justice), the PIL Task Force will rely on “all available criminal and civil enforcement tools” to hold those at “at every level of the [opioid] distribution system” accountable for unlawful conduct. This significant step may result in greater oversight and widespread criminal and civil prosecutions.

Prescription opioids, such as oxycodone, hydrocodone and morphine, are powerful pain-reducing drugs, but may also trigger feelings of pleasure or a “high.” Prolonged use of opioids can lead to addiction, misuse and abuse. According to the United States Department of Health and Human Services (HHS), an estimated 64,000 Americans died of drug overdoses in 2016, with the vast majority the result of opioids – nearly 116 people lost their lives to opioids each day. HHS declared a public health emergency in 2017, and followed with a strategic plan to improve access to prevention, treatment and support services to address it. The PIL Task Force will work in conjunction with HHS to provide additional federal resources to address the problem.

At the manufacturer level, the PIL Task Force will examine existing state and local government lawsuits against opioid manufacturers to determine

what, if any, federal assistance can be provided. One example is already underway: Justice will file a statement of interest in the pending multi-district federal litigation in Ohio, which focuses on the improper marketing and distribution of prescription medications by manufacturers and distributors. Justice will argue the federal government has borne substantial costs arising from the opioid epidemic and is entitled to reimbursement.

The PIL Task Force will also rely on existing laws to hold distributors, pharmacies and prescribers accountable for unlawful actions. This work was underway even before the Task Force's inception. In 2015, for example, a grand jury returned a multicount indictment against Little Rock, Arkansas physician Dr. Richard Johns for unnecessarily prescribing oxycodone to patients, including to some patients he had neither examined nor met. Johns later pleaded guilty to a single count of conspiring to possess with the intent to distribute oxycodone through a plea deal and received a nine-year federal prison sentence.

Finally, Attorney General Sessions directed the PIL Task Force to establish a working group to (1) improve coordination and data sharing across the federal government to better identify violations of law and patterns of fraud related to the opioid epidemic; (2) evaluate possible changes to the regulatory regime governing opioid distribution; (3) recommend changes to laws.

The Attorney General was clear: "We will use criminal penalties. We will use civil penalties. We will use whatever tools we have to hold people accountable for breaking our laws."

The PIL Task Force is another example of federal, state and local actions to address the opioid epidemic, which may significantly impact the health

care industry. Dinsmore & Shohl is monitoring the situation and stands ready to assist clients in navigating these developments. Dinsmore services the health care industry and individuals and entities charged with federal crimes. Should these developments cause concern, contact your Dinsmore Litigation or Health Care attorney.

National Institute on Drug Abuse, *Opioid Overdose Crisis* (Feb. 2018), <https://www.drugabuse.gov/drugs-abuse/opioids/opioid-overdose-crisis>.

U.S. Department of Justice, *Attorney General Sessions Delivers Remarks Announcing the prescription Interdiction and Litigation Task Force* (Feb. 27, 2018), <https://www.justice.gov/opa/speech/attorney-general-sessions-delivers-remarks-announcing-prescription-interdiction-and>

U.S. Department of Justice, *Justice Department to File Statement of Interest in Opioid Case* (Feb. 27, 2018), <https://www.justice.gov/opa/pr/justice-department-file-statement-interest-opioid-case>

U.S. Department of Health & Human Services, *HHS Acting Secretary Declares Public Health Emergency to Address National Opioid Crisis* (Oct. 26, 2017), <https://www.hhs.gov/about/news/2017/10/26/hhs-acting-secretary-declares-public-health-emergency-address-national-opioid-crisis.html>

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