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HEDGE PAPERS NO. 57

*Stopping the
Opioid Profiteers*

HOW POLICYMAKERS & COMMUNITIES CAN FIGHT BACK

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INTRODUCTION + OVERVIEW

HOW THE OPIOID PROFITEERS OPERATE

In recent years, billionaire pharmaceutical executives and hedge fund managers have made billions in profit by creating, feeding, and treating a crisis of opioid addiction in the United States.

As the opioid crisis has turned into a full-blown national public health epidemic, companies have sought profit from treating overdoses and addiction,

investing in for-profit treatment facilities and drugs to treat overdoses, as well as in cannabinoids, which are increasingly being permitted for medical use despite a federal prohibition on recreational marijuana.

This report examines how the biggest opioid profiteers operate, and offers a roadmap for how policymakers and communities can fight back.

It offers a closer look at how companies like Purdue Pharma, owned privately by the secretive Sackler family, and the hedge fund-backed Endo, have aggressively marketed addictive opioids for general pain treatment, downplaying the risks of addiction and paying doctors to endorse their drugs. And it analyzes the ways in which manufacturers and distributors have flooded the market with pills, turning a blind eye to the consequences of endlessly supplying deadly drugs.

While investing in selling opioids and treating the ensuing addiction, opioid profiteers have also actively tried to slash Medicare and Medicaid, programs that are crucial for funding opioid treatment, especially for low-income and moderate-income Americans.

With massive donations to politicians, opioid companies and the billionaires behind them have dodged taxes, chiseled away at regulations, pushed harmful austerity measures, and the privatization of public services.



Profiting from any addiction crisis is wrong, and profiting from a national opioid epidemic impacting millions of Americans is morally reprehensible in the strongest sense.

The report recommends two key proposals that policymakers and communities can use to fight back against the opioid profiteers: excise taxes and windfall profits taxes.

How those proposals would work, and why they are worth implementing, is discussed in the conclusion of the report.

THE OPIOID PROFITEERS

Billionaire pharmaceutical executives and hedge fund managers have extracted enormous sums of money by creating, feeding, and treating a crisis of opioid addiction in the United States.

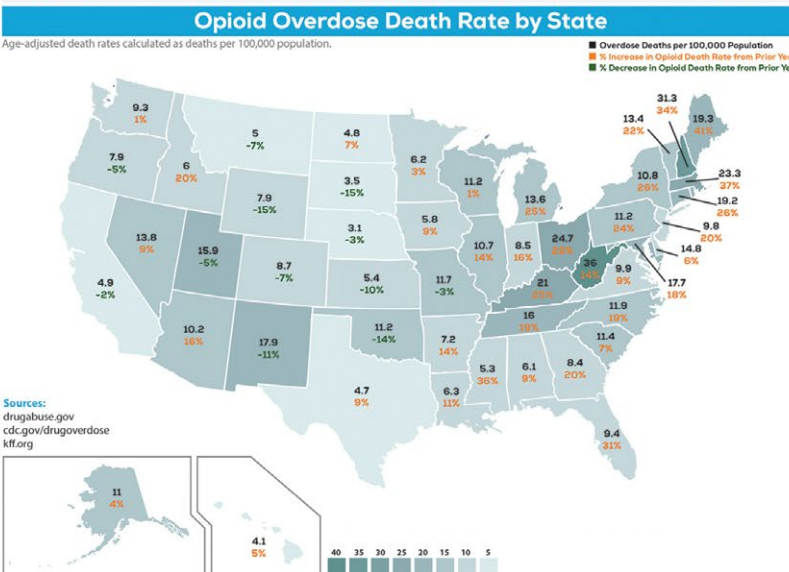
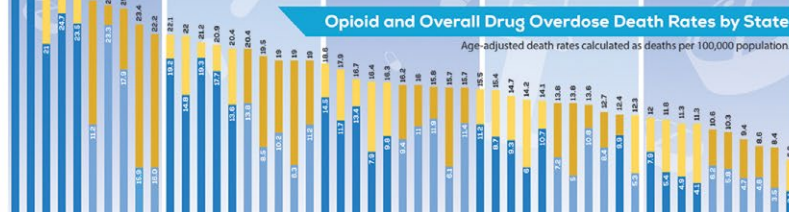
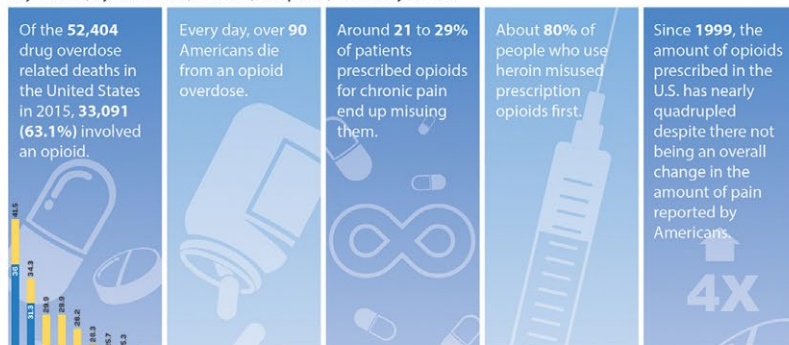
Companies like Purdue Pharma, owned privately by the secretive Sackler family, and the hedge fund-backed Endo aggressively marketed addictive opioids for general pain treatment, downplaying the risks of addiction and paying doctors to endorse their drugs. Manufacturers and distributors have flooded the market with pills, turning a blind eye to the consequences of endlessly supplying deadly drugs.

As the crisis has grown, companies have sought profit from treating overdoses and addiction, investing in for-profit treatment facilities and drugs to treat overdoses, as well as in cannabinoids, which are increasingly being permitted for medical use despite a federal prohibition on recreational marijuana.

While investing in selling opioids and treating the ensuing addiction, opioid profiteers have also pursued policies that have worsened the effects of the crisis

THE OPIOID EPIDEMIC IN THE UNITED STATES

Opioids are a class of drugs that include heroin, fentanyl, prescription pain relievers such as oxycodone, hydrocodone, codeine, morphine, and many others.



by undermining the social safety net. With massive donations to politicians, opioid companies and the billionaires behind them have dodged taxes, chiseled away at regulations, and pushed austerity and the privatization of public goods.

POLICIES & PROPOSALS TO FIGHT BACK — INCLUDING A WINDFALL PROFITS TAX

AT THE FEDERAL LEVEL, public health, drug treatment and harm reduction professionals know what's need to respond effectively to the opioid crisis:

- A stronger and stabilized Medicaid program with no drug tests or work requirements blocking access to treatment and care;
- A new \$100 billion categorical funding program for locally tailored lifesaving services (like the Ryan White Care Act that responded to the AIDS epidemic); and
- A bar on any measures to limit or ban syringe access or overdose prevention efforts.

AND AT THE STATE LEVEL, professionals, communities and families know what works:

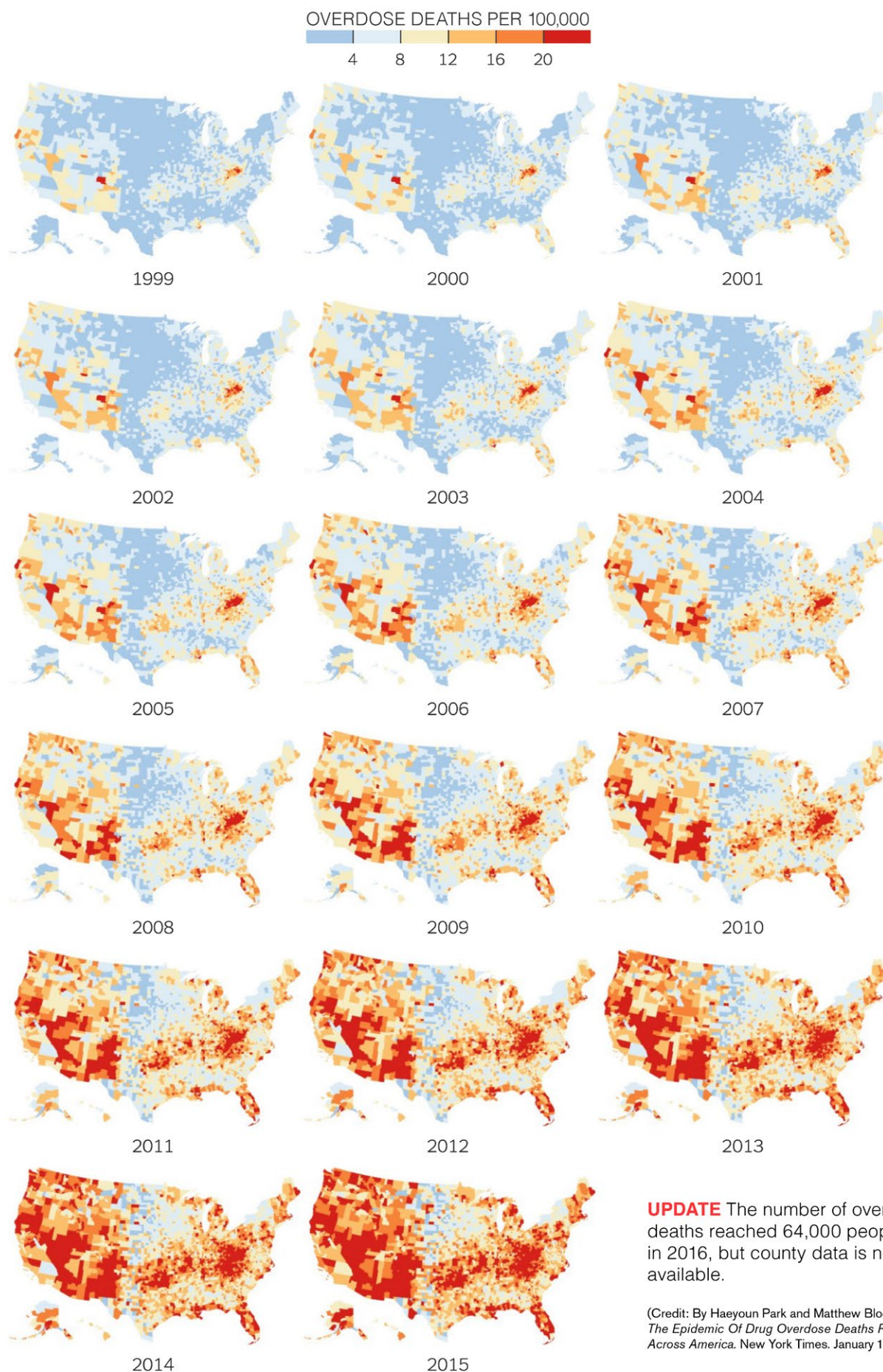
- Universal access to three life-saving public health tools: medication-assisted treatment, naloxone, and harm reduction services;
- A fully-funded health care system with access to lifesaving treatment and care for all, regardless of status or ability to pay; and
- Public education and outreach programs that provide accurate information and hope.

Communities seeking large amounts of new funding to quickly build a public health response that's big enough to respond to the overdose and addiction epidemic have to go where the money is — and that means a tax on the profits and the fortunes of the opioid profiteers.

COMMUNITIES seeking large amounts of new funding to quickly build a public health response that's big enough to respond to the overdose and addiction epidemic have to go where the money is — and that means a tax on the profits and the fortunes of the opioid profiteers.

Excise or Sales Taxes on Opioid Pharmaceuticals could provide a foundation for scaling up these important programs going forward. And a windfall profits tax on billionaire opioid profiteers and Big Pharma could do even more.

HOW THE EPIDEMIC OF DRUG OVERDOSE DEATHS RIPPLED ACROSS THE UNITED STATES



UPDATE The number of overdose deaths reached 64,000 people in 2016, but county data is not yet available.

(Credit: By Haeyoun Park and Matthew Bloch. *How The Epidemic Of Drug Overdose Deaths Rippled Across America*. New York Times. January 19, 2016)

The background of the slide features a close-up photograph of several pharmaceuticals. In the foreground and middle ground, there are numerous light blue, oval-shaped capsules. Some are in sharp focus, while others are blurred. In the upper portion of the image, there are several white, round tablets, some of which have faint markings. In the bottom left corner, a small portion of a red, oval-shaped capsule is visible. The entire scene is set against a dark blue, textured background.

BACKGROUND

THE VILLAINS OF THE OPIOID CRISIS: MEET THE OPIOID PROFITEERS

More than 64,000 Americans died from drug overdoses in 2016, twice as many as ten years ago — but President Trump is misleading us about who's to blame.

A small number of extraordinarily wealthy American families and executives made billions from dangerous opioid painkillers over the past two decades, setting off our current crisis.



The Sackler Family, Pg. 9

- Purdue Pharmaceutical founders and heirs, including Richard & Jonathan Sackler
- A \$14 billion fortune built on OxyContin addiction
- Drug profits fund waterfront Greenwich CT mansions and art-world philanthropy



John Hammergren, Pg. 11

- Top-paid CEO of McKesson Corp.
- Flooded the U.S. with oxycodone and hydrocodone
- Highest-paid CEO with private jet to vacation homes



James Flynn, Pg. 12

- Hedge fund manager at Deerfield Management
- Billions invested in opioid production and distribution, and for-profit drug treatment chains
- Profiting from addiction crisis and for-profit treatment



John Kapoor, Pg.13

- Billionaire founder of Insys Pharmaceutical
- Arrested for illegal marketing of oral fentanyl product Subsys
- Partners with health care hedge funds



John Paulson, Pg. 14

- Hedge fund billionaire who made the most from the subprime housing crisis
- Now invested in opioid pharmaceuticals
- Pushing Percocet and fentanyl nationwide



David Bonderman, Pg. 15

- Private equity billionaire with TPG Capital
- Biggest investor in Percocet and Opana manufacturer Endo
- Foreclosing on families in Puerto Rico and profiting from addiction nationwide

SACKLERS & PURDUE PHARMA

The most notorious profiteers from the opioid crisis so far has been the Sackler family, the heirs and owners of Purdue Pharma, which developed and sold the powerful opioid OxyContin.

WHO IS BENEFITTING:

Richard Sackler,
Jonathan Sackler



The most notorious profiteers from the opioid crisis so far has been the Sackler family, the heirs and owners of Purdue Pharma, which developed and sold the powerful opioid OxyContin. Stories that appeared detailed the Sackler family and Purdue Pharma that appeared in the *New Yorker*¹ and *Esquire*² magazines in late 2017 detailing the family's fabulous wealth and its origins in addictive drugs.



Raymond and Beverly Sackler (credit: Taco van der Eb/Hollandse)

The family of Arthur Sackler, the eldest of the brothers who bought Purdue Pharma in 1952, has tried to distance itself from the opioid profiteering of his brothers and their descendants; however recently revealed court records show that his heirs still profited from the sale of OxyContin.³

Though Arthur Sackler passed away in 1987 and his estate sold his share in the company to his two brothers shortly thereafter, the terms of the sale of left Arthur Sackler's estate holding a note worth nearly \$20 million. Purdue paid that note off 1997, two years after OxyContin was introduced and sent Purdue's profits through the roof.



Mortimer D. Sackler and his daughter Cathy Sackler with Arthur M. Sackler and his daughter Elizabeth Sackler at the National Gallery of Art, Washington, DC 1974

Richard and Jonathan Sackler, the sons of Raymond Sackler, each own an estate in Connecticut, and the family – including Arthur Sackler's widow and heirs – has properties all over the world.

The family are also prolific philanthropists, donating hundreds of millions of dollars to museums, galleries, and educational institutions.

The family's extravagant lifestyle, the company's exorbitant profits and the willingness of philanthropies and museums to launder opioid profits and the controversial reputation of the Sacklers has been targeted by Prescription Addiction Intervention Now (P.A.I.N.), an activist group led by renowned contemporary artist Nan Goldin.⁴



FOOTER SECTION TITLE:

- 1 *"The Family That Built an Empire of Pain"*, Patrick Radden Keefe, October 30, 2017.
<https://www.newyorker.com/magazine/2017/10/30/the-family-that-built-an-empire-of-pain>
- 2 *"The Secretive Family Making Billions from the Opioid Crisis"*, Christopher Glazek, October 16, 2017.
<http://www.esquire.com/news-politics/a12775932/sackler-family-oxycontin/>
- 3 *"Sacklers Who Disavow OxyContin May Have Benefited From It"*, David Armstrong, April 10, 2018.
<https://www.propublica.org/article/sacklers-who-disavow-oxycontin-may-have-benefited-from-it>
- 4 *"Nan Goldin"*, Nan Goldin, January 2018.
<https://www.artforum.com/print/201801/nan-goldin-73181>

JOHN HAMMERGREN & MCKESSON



John Hammergren (Credit: George Nikitin / AP Photo)

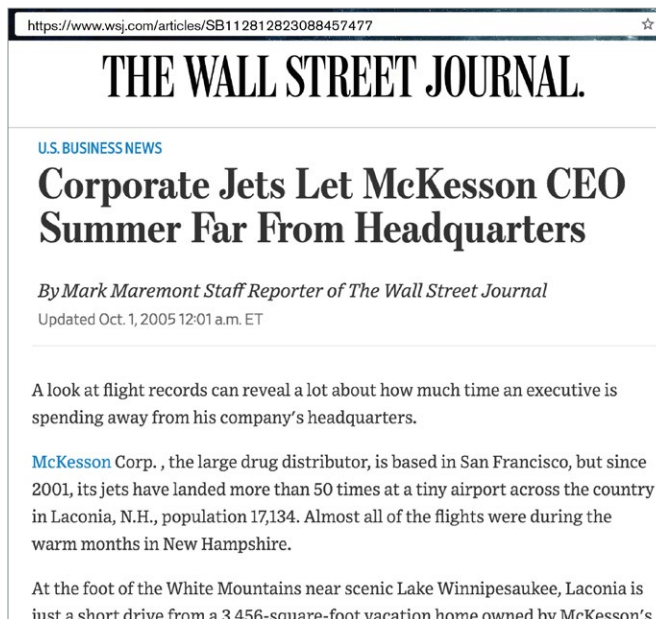
From 2008–2017 McKesson Corporation was pouring opiates like oxycodone and hydrocodone into communities across the country.

WHO IS BENEFITTING:

John Hammergren

MCKESSON

From 2008 through 2017, John Hammergren, the CEO of drug wholesaler McKesson Corporation was paid



\$692 million, and was the highest-paid CEO in the country in 2011.⁵ During that time, his company was pouring opiates like oxycodone and hydrocodone into communities across the country, fuelling an epidemic of addiction and death.

McKesson is backed by Deerfield Management, the healthcare-focused hedge fund managed by James E. Flynn.

FOOTER SECTION TITLE:

⁵ "Revealed: huge increase in executive pay for America's top bosses", Dominic Rushe, December 14, 2011.
<https://www.theguardian.com/business/2011/dec/14/executive-pay-increase-america-ceos>

JAMES FLYNN & DEERFIELD MANAGEMENT



2016 Annual Gala, New York Academy of Medicine. Kerianne and James Flynn.

The top two holdings in the portfolio of hedge fund Deerfield Management are the opioid distributor Mallinckrodt and generic morphine and fentanyl manufacturer Mylan.

WHO IS BENEFITTING:

James Flynn

DEERFIELD[®]
Advancing Healthcare[™]

According to a February 2018 SEC filing, the top two holdings in the portfolio of the James Flynn-managed hedge fund Deerfield Management are the opioid distributor Mallinckrodt and generic morphine and fentanyl manufacturer Mylan.⁶ The fund is also has a major investment in drug distributor McKesson Corp. Deerfield further lent \$375 million to the manufacturer Depomed to help it acquire the rights to the opioid Nucynta. Additionally, Deerfield invests in two for-profit addiction treatment chains: American Addiction Centers and Recovery Centers of America.

The hedge fund runs a charity, the Deerfield Partnership Foundation, which it advertises as “the real-world reflection of our desire to help others on a local and a global scale.” Contributions in 2015 amount to less than 1% of the hedge fund’s fees that year.⁷

Flynn’s homes include two Tribeca penthouses – in 2011 he paid \$8.6 million to the daughter of Martha Stewart to buy her penthouse to combine with the one he already owned next door⁸ – and a \$6 million Hamptons mansion.⁹

FOOTNOTES:

- 6 Deerfield Management, Whale Wisdom.
https://whalewisdom.com/filer/deerfield-management-co-ny#tabholdings_tab_link
- 7 Performance and management fees of \$167 million were calculated based on assets under management (“in excess of \$5 billion in 2015 – <https://web.archive.org/web/20150426035229/http://deerfield.com/Investment.aspx?t=1>)
- 8 “A Livelier Rooftop Means Privacy Problems for Tribeca Penthouse”, Carl Glassman, August 25, 2015.
<http://www.tribecatrib.com/content/livelier-rooftop-means-privacy-problems-tribeca-penthouse>
- 9 Town of East Hampton Assessment Roll And Levy Module, March 1, 2017.
<http://ehamptonny.gov/ArchiveCenter/ViewFile/Item/129>

JOHN KAPOOR & INSYS

Insys Therapeutics, a drug company based in Chandler, Arizona whose main product is Subsys, an oral fentanyl spray.

WHO IS BENEFITTING:

John Kapoor



John Kapoor is a serial pharmaceutical investor and the founder of Insys Therapeutics, a drug company based in Chandler, Arizona whose main product is Subsys, an oral fentanyl spray of Kapoor's invention.

Subsys, the marketing of which has driven several states to sue Insys and led to the arrest of Kapoor and six other former executives, made Kapoor a billionaire. Forbes estimated his net worth at \$1.9 billion in January 2018.¹⁰



https://si.wsj.net/public/resources/images/BN-QX040_1121IN_H_20161121151732.jpg

of New York at Buffalo where he received his PhD in 1972. The building housing the University at Buffalo's school of pharmacy is currently named after John Kapoor and his late wife Editha.



After Kapoor, the largest owner of Insys is Orbimed Advisors, a healthcare-focused hedge fund led by manager Sam Isaly. As of a November 2017 SEC filing, Orbimed owned 7.4% of Insys shares, a stake worth \$52 million.¹¹

FOOTNOTES:

¹⁰ "John Kapoor", Forbes. <https://www.forbes.com/profile/john-kapoor/>

¹¹ Insys Therapeutics, Whale Wisdom. <https://whalewisdom.com/stock/insy-2>

JOHN PAULSON + PAULSON & CO

John Paulson, who manages the hedge fund Paulson & Co., is best known for his massive bet on the 2008 collapse of the housing market, which helped fuel the ensuing home foreclosure crisis.

WHO IS BENEFITTING:

John Paulson



fortune.com/2017/06/19/largest-valeant-shareholder-john-paulson-joins-drugmakers-board/

John Paulson, who manages the hedge fund Paulson & Co., is best known for his massive bet on the 2008 collapse of the housing market, which helped fuel the ensuing home foreclosure crisis.

Paulson is also a major investor in pharmaceutical companies fueling the opioid crisis.

According to September 2017 SEC filings, Paulson & Co. had at least \$974.9 million invested in opioid manufacturers and distributors. The fund's holdings include a \$525.9 million stake in Mylan; a \$310.6 million stake in Allergan, which produces the name brand opioids Kadian and Norco as well as generics; a \$82.8 million stake in Mallinckrodt, a \$55.6 million investment in Endo, which makes Opana and Percocet.¹² Paulson sold its stake in Teva, which makes the Actiq and Fentora fentanyl products, in late 2017.

Paulson has used his billions of dollars to make the largest donation in the history of Harvard University – \$400 million.¹³ He has also been a donor and advisor to Donald Trump.

In addition to a 28,500-square-foot townhouse¹⁴ and a Hamptons estate, Paulson owns a \$49 million ranch¹⁵ in Aspen, Colorado, purchased from Saudi Prince Bandar bin Salman.

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JOHN PAULSON + PAULSON & CO. FOOTNOTES:

¹² Paulson & Co., *Whale Wisdom*.

https://whalewisdom.com/filer/paulson-co-inc#tabholdings_tab_link

¹³ "John Paulson Gives \$400 Million to Harvard for Engineering School", Tamar Lewin, June 3, 2015.

<https://www.nytimes.com/2015/06/04/education/john-paulson-gives-400-million-to-harvard-for-engineering-school.html>

¹⁴ "President Trump's First Year in Office", Wall Street Journal.

<http://www.wsj.com/video/president-trump-first-year-in-office/617EEBFE-27F2-4CCE-AB60-9FE9B25FF913.html>

¹⁵ "Billionaire John Paulson Confirms \$49 Million Purchase Of Hala Ranch", Morgan Brennan, June 5, 2012.

<https://www.forbes.com/sites/morganbrennan/2012/06/05/billionaire-john-paulson-confirms-his-purchase-of-hala-ranch-for-49-million/#179ad0f6291b>

DAVID BONDERMAN & TPG CAPITAL



David Bonderman, co-founder and chairman of TPG Holdings LP, speaks at the Milken Institute Asia Summit in Singapore, on Friday, Sept. 16, 2016. (Credit: time.com)

The largest investor in Endo Pharmaceuticals is the hedge fund TPG Capital, whose 9.9% stake in the company was worth \$171.7 million.

WHO IS BENEFITTING:

David Bonderman



The largest investor in Endo Pharmaceuticals is the hedge fund TPG Capital, whose 9.9% stake in the company was worth \$171.7 million, according to a February 2018 SEC filing.¹⁶ In 2016, 25% of Endo's revenues came from sales of Opana and Percocet, Endo's name brand opioids.¹⁷

TPG Capital is led by David Bonderman, an investor famous for his lavish birthday parties. Bonderman's 70th birthday party featured performances by Paul McCartney and Robin Williams.¹⁸ Bonderman was pressured into stepping down from his seat on the board of directors of the ride-hailing company Uber after making sexist comments at a board meeting in the wake of accusations of a corporate culture of sexual harassment at the company.¹⁹

TPG also owns a mortgage operation that is foreclosing on more homes in Puerto Rico than all but one bank.

FOOTNOTES:

16 Endo International, Whale Wisdom. <https://whalewisdom.com/stock/endorp>

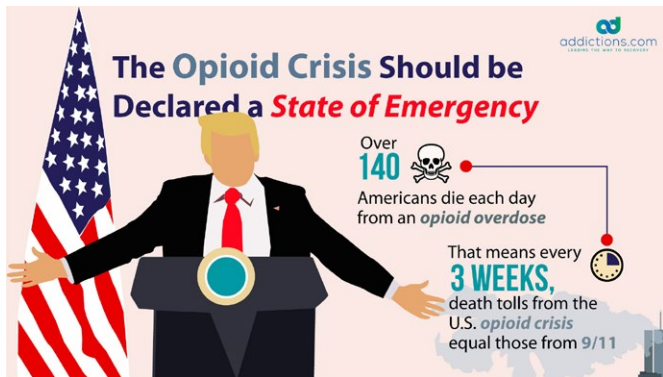
17 Form 10-K, Endo International, March 1, 2017.
<https://www.sec.gov/Archives/edgar/data/1593034/000159303417000009/endorp-12312016x10k.htm>

18 "Tough Times? You Wouldn't Know at Party for Private Equity Titan", Peter Lattman, November 19, 2012.
<https://dealbook.nytimes.com/2012/11/19/what-happens-in-vegas-a-buyout-birthday-blowout/>

19 "David Bonderman Resigns From Uber Board After Sexist Remark", Mike Isaac & Susan Chira, June 13, 2017.
<https://www.nytimes.com/2017/06/13/technology/uber-sexual-harassment-huffington-bonderman.html>

20 Report No. 53: Private Equity and Puerto, Hedge Clippers, December 19, 2017.
<http://hedgeclippers.org/report-no-53-private-equity-and-puerto-rico/>

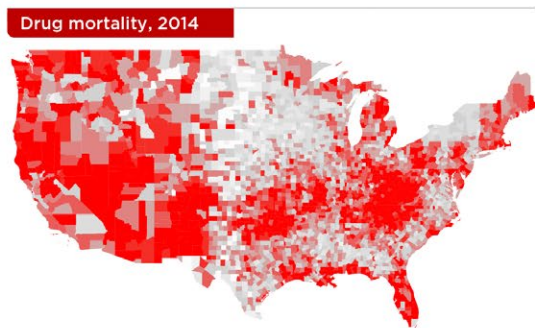
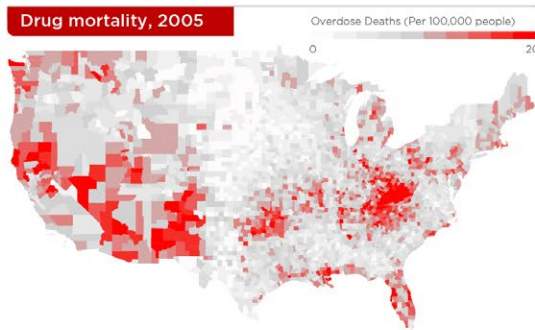
AGGRESSIVE MARKETING



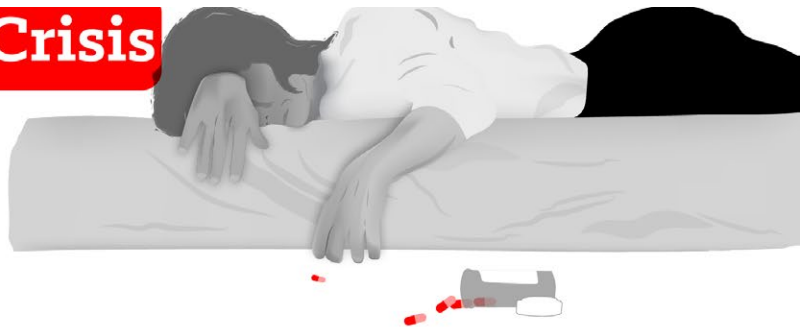
One of the hallmarks of the 21st century opioid crisis has been the aggressive ways pharmaceutical companies have marketed addictive drugs to the American public. Companies have pushed opioids as all-purpose solutions for pain, downplayed risks of addiction, and paid off pliant doctors in order to flood the country with drugs in their relentless pursuit of profits.

America's Opioid Crisis

The stunning spread of the opioid painkiller and heroin epidemic in two maps over 10 years.



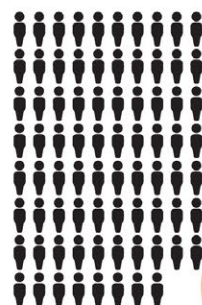
Sources: Centers for Disease Control and Prevention, National Institutes of Health



A challenge for cities, counties and states

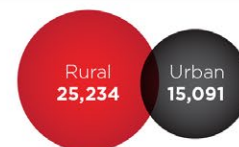
The rise in prescription opioid and heroin addiction is causing an increase in overdoses as well as more cases of HIV/AIDs and hepatitis C.

Deaths from opioids



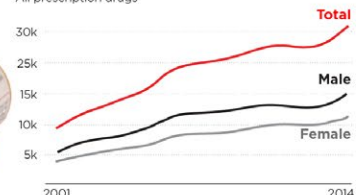
78

Americans die every day from an opioid overdose.



National overdose deaths

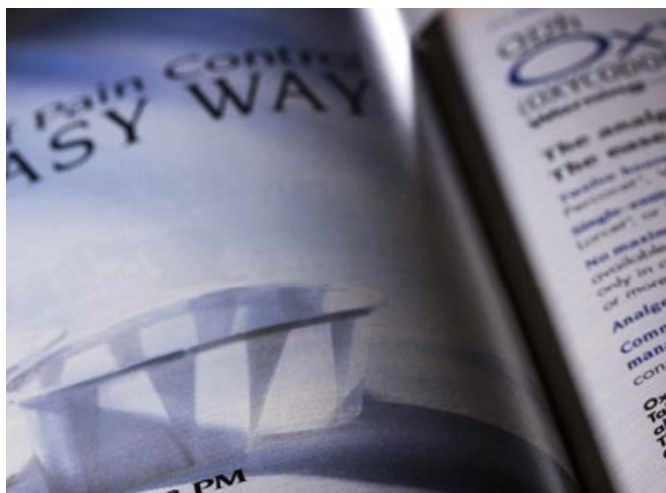
All prescription drugs



Funding Pro-Opioid Advocacy Groups

As part of an ongoing investigation into the addiction crisis, US Senator Claire McCaskill released a report examining donations from opioid manufacturers to patient advocacy organizations and trade groups in February 2018.²¹ The report found that between 2012 and 2017, opioid manufacturers – including many of the firms profiled in this report – paid nearly \$9 million to advocacy organizations and trade groups that “engaged in pro-opioid advocacy over a long period of time, including through guidance minimizing the risks of opioid addiction and the endorsement of opioid use for the long-term treatment of chronic pain.”

The two biggest funders of pro-opioid advocacy groups were Purdue Pharma, which donated \$4.2 million, and Insys Therapeutics, which donated \$3.1 million. Donations from these two companies comprised 82% of the money given in the time period examined.



Credit: “You Want a Description of Hell?”: OxyContin’s 12-Hour Problem (Harriet Ryan, Lisa Girion, Scott Glover / The Los Angeles Times)

The first in a five-part investigative series by The Los Angeles Times examines how OxyContin’s deception on 12 hours of pain relief has fueled \$31 billion in revenue for its maker—and an epidemic of addiction and death for its users.

Other opioid companies in the report include the Deerfield Management-backed Depomed and Mylan, which is backed by Deerfield and by Paulson & Co.

Pushing Pain as a “Fifth Vital Sign”

One tactic of these industry-funded pain advocacy groups was to convince the medical establishment to acknowledge pain as a “fifth vital sign” in addition to objectively measured blood pressure, heart rate, respiratory rate, and temperature. Centering the treatment of pain alongside its underlying causes contributed to the overprescription of opioid drugs and the expansion of the addiction crisis as opioid products like OxyContin became increasingly available with their addiction risk minimized by their manufacturers.

<https://www.foxnews.com/health/article/these-pharmaceutical-companies-are-making-a-killing-off-the-opioid-crisis>

Vox

More evidence that drug companies helped cause the opioid epidemic — for their own profits

By German Lopez | @germanlopez | german.lopez@vox.com | May 5, 2016, 3:10pm EDT

By now, it's well-known that opioid painkillers caused an **overdose epidemic** that has killed tens of thousands of Americans annually in recent years. But one aspect that's understated in reports is that these painkillers failed patients, too — not just by putting them at risk of addiction and overdose but by failing to treat their pain as the drugs were supposed to.

In the **Los Angeles Times**, Harriet Ryan, Lisa Girion, and Scott Glover investigated a striking example of this failure: OxyContin, an opioid, doesn't live up to its promise of 12-hour pain relief for many patients. Yet Purdue Pharma, producer of OxyContin, has stood by its claim, motivated by profit even as it puts patients at risk of addiction and overdose. *The Los Angeles*

In 1995, the year that OxyContin was approved by the FDA, American Pain Society President James Campbell first presented the idea of using pain as a

fifth vital sign.²² The Joint Commission, which accredits healthcare programs and organizations, and the Veterans Health Administration followed the American Pain Society's lead, instructing doctors to constantly monitor patients' subjective reports of pain and to prioritize reducing pain to o.

The American Pain Society has received large amounts of funding from opioid manufacturers, including several hedge fund-backed drug companies. Currently the APS corporate council includes Teva at the highest "Corporate Circle" level, Depomed and Purdue Pharma at the second-tier "Executive" level, and Mallinckrodt at the "Associate" level.²³

Past corporate council members have included Endo Pharmaceuticals and Janssen, whose parent company Johnson & Johnson is backed by Sam Isaly's Orbimed Advisors.²⁴ The companies in the report from Senator McCaskill gave a total of \$962,742.52 to the American Pain Society between 2012 and 2017.²⁵

Misleading and Paying Off Doctors

For years, Purdue Pharma misled doctors and the general public about the potential for patients to become dependent upon and addicted to OxyContin.

When the Food and Drug Administration first approved the drug in 1995, it permitted Purdue to include an insert claiming that the OxyContin time release formulation was "believed to reduce the abuse liability of a drug." According to the New Yorker, the FDA doctor overseeing OxyContin's approval process took a job at Purdue shortly thereafter.²⁶ Sales representatives were instructed to tell doctors that the drug was "'virtually' non-addicting". Borrowing a tactic from the tobacco industry, another sector whose profits were driven by addiction to a deadly product, Purdue funded research claiming that OxyContin was safe.



In 2007, Purdue plead guilty to a felony and paid a \$600 million fine for misbranding OxyContin "with intent to defraud or mislead."

Seven executives at another opioid manufacturer, Insys Therapeutics, are facing federal criminal charges over that company's marketing of Subsys, its oral spray preparation of the opioid fentanyl.

The Insys defendants – including founder and former CEO John Kapoor and another former CEO Michael Babich – are charged with conspiring to bribe doctors to prescribe Subsys. The firm and its executives are accused of paying kickbacks in the form of exorbitant speaking fees to doctors who prescribed Subsys.²⁷

According to a September 2017 report from Senator McCaskill's office, Insys saw huge profits during this time period. Its profits rose 45% from 2013 to 2015 and the value of Insys stock increased 296% from 2013 to 2016 when the first arrests of Insys executives occurred.²⁸

The indictments against the Insys executives also allege that they defrauded insurance companies into approving payments for "off-label" Subsys prescriptions, i.e. for uses other than what was approved by the FDA.²⁹ Though the drug was only approved for cancer pain, the New York Times

reported in 2014 that only one percent of prescriptions had been written by oncologists.³⁰

https://www.wvgazetteemail.com/news/health/wv_drug_abuse/in-two-years-drug-giant-mckesson-shipped

Charleston Gazette-Mail
A Daily News/Weekend Newspaper

In two years, drug giant McKesson shipped 5 million pain pills to town of 400, House panel says

By Eric Eyre Staff writer Feb 15, 2018



AP file photo

In just two years, drug giant McKesson Corp. shipped nearly 5 million prescription painkillers to a single pharmacy in a Southern West Virginia town with 400 residents, according to a letter released Thursday by a congressional committee investigating the opioid epidemic.

McKesson, which ranks No. 5 in the Fortune 500, supplied more than 184,000 hydrocodone pills a month to a drive-thru pharmacy in Kermit in 2006 and 2007, the House Energy & Commerce disclosed in the letter.

As of this year, cases against Insys and its executives are still pending; Kapoor and his fellow defendants have pleaded not guilty.³¹

Flooding Communities with Addictive Pills

McKesson, a major drug wholesaler, has had cases brought against it by local, state, and the federal government for flooding poor communities with opiates without scrutinizing suspicious orders.³² In January 2017, the company paid a record \$150 million penalty to settle a suit brought by the US Department of Justice over its failure to report suspicious orders. McKesson paid \$13.25 million for similar violations in 2008.

The Charleston Gazette-Mail found that in one year, McKesson supplied more hydrocodone pills to Mingo County, West Virginia than five other consecutive years combined.³³

The 3.3 million pills McKesson shipped to Mingo County equates to roughly 122 pills for each of the county's 27,000 residents. According to the Gazette-Mail, Mingo County has the fourth highest opioid death rate in the United States.

Another major manufacturer and distributor, Mallinckrodt, settled a similar suit in April 2017.

Reformulating, Remarketing, Profiting from Generics

A final tactic of the opioid profiteers has been to introduce and market new opioid drugs when the patent expires on older versions.

OxyContin was originally created because Purdue Pharma's patent on its continuous release morphine drug MS Contin was about to expire.

When a generic version of Endo Pharmaceuticals oxycodone drug Opana was being considered for approval, the company argued that the drug's abuse potential was too high and pulled it from the market.³⁴

In 2017 after the FDA prevailed upon Endo to stop selling a reformulated crush-resistant Opana because the risk of abuse was still too high, the company began trying to profit from the generic that it had previously claimed was too prone to abuse to be safely sold.³⁵ According to CNN, Endo "cut a deal with Impax Laboratories to split the profits of a generic version of its original drug."

OVERDOSE DEATHS FROM 2005–2016 IN SELECT STATES

STATE	2005	...	2014	2015	2016	% INCREASES FROM 2005 — 2016
DE	62		189	198	282	79%
FL	2,371		2,634	3,228	4,728	99%
IN	610		1,172	1,245	1,526	60%
MD	656		1,070	1,285	2,044	70%
NC	1,000		1,358	1,567	1,956	49%
NH	142		334	422	481	70%
NY	944		2,300	2,754	3,638	74%

STATE	2005	...	2014	2015	2016	% INCREASES FROM 2005 — 2016
OH	1,243		2,744	3,310	4,329	71%
TN	872		1,269	1,457	1,630	47%
VT	53		83	99	125	58%
WY	26		15	109	99	74%
WV	184		627	725	884	79%

Source: Centers for Disease Control and Protection, <https://www.cdc.gov>

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PROFITING FROM CRISIS AND FROM TREATMENT

In a vertical integration of human misery, some investors and pharmaceutical companies have sought profits both from feeding the opioid crisis and from treating it.

At the same time as James Flynn's hedge fund Deerfield Management has invested in and lent to opioid manufacturers and distributors that have been investigated and penalized for their contribution to the addiction epidemic, it has also been investing in treatment facilities.

From 2015³⁶ through 2016, Deerfield invested \$331.5³⁷ million in Recovery Centers of America, a for-profit chain of addiction treatment centers. The fund also owns a 10% stake in another for-profit treatment chain, American Addiction Centers.

Both chains are notable for their focus on profits over the welfare of their patients and employees.

An investigation by STAT and the Boston Globe published in August 2017 found gross deficiencies in the care provided at luxury \$24,000 per month Recovery Centers of America facilities.³⁸ Employees at RCA reported being short-staffed and exhausted,

state investigators found that "essential services like individual counseling and group therapy sessions were not regularly being provided," and patients were often unsupervised, according to the investigation. At least two patients in RCA's facility in Danvers, Massachusetts have died.

In May 2017, American Addiction Centers locked out employees at its Sunrise House facility in Lafayette, New Jersey during a contract dispute. The care workers reported similar conditions as those at Recovery Centers of America: understaffed, overworked, and underpaid.³⁹ Sunrise House patients were transferred to other AAC facilities, some as far away as California and Las Vegas, according to the care workers' union.⁴⁰

Opioid manufacturers have also sought to profit from both sides of the crisis.



(Credit: Medicaid-covered opioid overdose and treatment drugs reveal the growth of the opioid crisis. Urban Institute)

Santosh Vetticaden, then the CEO of Insys Therapeutics, the firm accused of bribing doctors to prescribe its fentanyl spray, told financial analysts in February 2017 that:

As a responsible marketer of opioids, we believe we have a moral and social responsibility to provide solutions to what has been the inappropriate use of opioids, which has led to the opioid epidemic, and so we are committed to coming up with solutions to address that.

Vetticaden described several drugs in Insys's research pipeline, including naloxone (best known under the brand name Narcan), "for the reversal of opioid toxicity;" buprenorphine naloxone, "for the treatment of opioid maintenance;" and "our next generation Subsys, which is fentanyl with an addition of naloxone as an abuse deterrent."

In its 2016 annual report, Insys reported spent \$17.9 million on research and development for those drugs.⁴¹



Vetticaden has since left Insys and joined Depomed, the drug manufacturer whose purchase of the opioid Nucynta was financed by Deerfield Advisors.⁴² He was replaced as CEO by Saeed Motahari, the former Chief Commercial Officer of Purdue Pharma.⁴³

Mylan, backed by Deerfield Advisors and by Paulson & Co., also produces generic naloxone for reversing opioid overdoses in addition to its fentanyl and morphine products.

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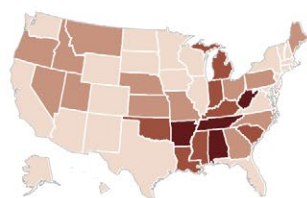
PUSHING ANTI-SOCIAL POLICIES

The politics of pain

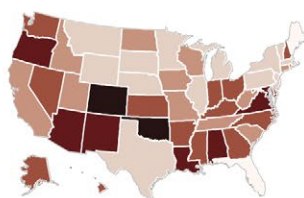
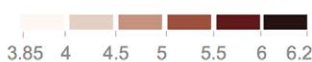
States nationwide are grappling with a devastating opioid crisis. Yet attempts at regulating pain medications have faced resistance from a powerful pro-drug political machine, the Center for Public Integrity and the AP found.

THE OPIOID PROBLEM

The rate of opioid prescriptions per adult was higher in the southeast. (2014 data)



Nonmedical use of pain relievers in 2013 - 2014 among adults. (percentages)

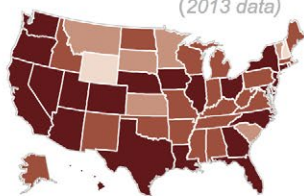


LEGISLATION AND LOBBYING

Number of state bills mentioning opioids. (2013-16)



Number of state legislators for each pro-opioid lobbyist. (2013 data)



POLITICAL SPENDING

Opioid manufacturers and their allies have contributed roughly \$80 million to state and federal candidates and have spent about \$746 million on state and federal lobbying since 2006. How the spending breaks down:

to State	to Federal	for State/Federal candidates	
\$109 mil.	\$716 mil.	45% Dems	54% Reps

SOURCES: Substance Abuse and Mental Health Services Administration; AP IMS Health; National Institute on Money in State Politics; Quorum; Federal Election Commission

Beyond selling drugs and profiting from the treatment of opioid addiction, the opioid profiteers have exacerbated the effects of the crisis by working to dismantle regulations meant to protect the public from predatory industries, block alternatives to addictive drugs, and support politicians and policies that undermine the social safety net.

Dismantling & Watering Down Regulations

A joint investigation by the Washington Post and 60 Minutes revealed how lobbyists for drug distributors, working with compliant members of Congress, worked to weaken the Drug Enforcement Administration's ability to stop suspicious shipments of narcotics from drug distributors, like the hedge fund-backed McKesson, to pharmacies.⁴⁴

A law, drafted by a former top lawyer at the DEA Office of Diversion control who left to lobby for the drug industry, was introduced by Tom Marino, a Pennsylvania Congressman whose community has

been especially hard-hit by the opioid crisis. Marino has also received more than \$92,000 from drug companies and distributors, according to the Post. The law sailed through Congress and was signed into law by then-President Barack Obama with barely any objection.

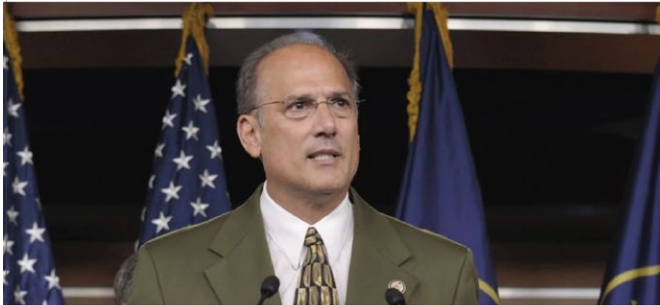
https://www.washingtonpost.com/news/the-fix/wp/2017/10/17/a-cheat-sheet-to-the-investigation-that-cost-to☆

The Washington Post
Democracy Dies in Darkness

The Fix • Analysis

A cheat sheet to the investigation that cost Rep. Tom Marino the nomination to be drug czar

By **Amber Phillips** October 17, 2017 [Email the author](#)



Rep. Tom Marino in 2012. (Jake Danna Stevens/Times-Tribune via Associated Press)

Rep. Tom Marino (R-Pa.) [has withdrawn his nomination](#) to be President Trump's drug czar after an investigation by The Washington Post and "60 Minutes" detailed his years-long efforts to pass a law that critics say allowed the drug industry to profit off people addicted to opioids.

In 2015, trade groups representing hedge fund-backed pharmaceutical companies like Endo and Janssen as well as Purdue Pharma lobbied heavily to undermine Centers for Disease Control and Prevention regulations to reduce the frequency with which opioid drugs are prescribed.⁴⁵ The Washington Legal Foundation, a group backed by Purdue Pharma, even threatened to sue the CDC if it moved forward with its new regulations, according to reporting from the Intercept.

The following year, Congress passed a bill to address the opioid crisis that included a provision requiring opioid prescribing guidelines to be regularly reviewed and possibly revised. The law calls for the reviewing task force to include private sector expertise in pain management.⁴⁶

Fighting Cannabis Reform

In 2016, Insys Therapeutics spent \$500,000 to oppose Arizona Proposition 205, which would have legalized recreational marijuana in the state where Insys is headquartered. During that same time period, Insys was seeking approval from the FDA for Syndros, its brand of dronabinol, which is a synthetic version of THC, the active chemical in marijuana.

John Kapoor, Insys's founder and at that time its CEO, said that the company was donating to the effort to

As filed with the Securities and Exchange Commission on August 17, 2007		Registration No. 333-
UNITED STATES SECURITIES AND EXCHANGE COMMISSION Washington, D.C. 20549		
FORM S-1 REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933		
Insys Therapeutics, Inc. (Exact Name of Registrant as Specified in its Charter)		
Delaware (State or Other Jurisdiction of Incorporation or Organization)	2834 (Primary Standard Industrial Classification Code Number) 10220 South 51st Street, Suite 2 Phoenix, AZ 85044-5231 (602) 910-2617 (Address, including Zip Code, and Telephone Number, including Area Code, of Registrant's Principal Executive Offices)	01-0749410 (I.R.S. Employer Identification Number)
Jon W. McGarity President and Chief Executive Officer Insys Therapeutics, Inc. 10220 South 51st Street, Suite 2 Phoenix, AZ 85044-5231 (602) 910-2617		

defeat the legalization measure because legalization “fails to protect the safety of Arizona’s citizens, and particularly its children.”⁴⁷ However, in an August 2016 SEC filing, Insys declared that marijuana legalization posed a threat to the company’s revenues.⁴⁸ From that filing:

If marijuana or non-synthetic cannabinoids were legalized in the United States, the market for dronabinol product sales would likely be significantly reduced and our ability to generate revenue and our business prospects would be materially adversely affected.

In 2016, Insys spent \$19.2 million on developing cannabinoid drugs, including \$3.9 million on dronabinol, according to the company’s annual report that year.⁴⁹

The FDA approved Syndros, Insys’s dronabinol drug, in July 2016 and that November the marijuana legalization measure was defeated. In March 2017, the Drug Enforcement Administration scheduled Syndros as a Schedule II drug.⁵⁰ Marijuana remains on the DEA’s Schedule I, which is reserved for drugs with “no currently accepted medical treatment use.”

Defeating the marijuana legalization measure likely cost lives. study published in October 2017 found that legalizing marijuana was associated with a drop in opioid deaths. Researchers found that opioid-linked deaths in Colorado dropped 6.5% from 2014, when recreational marijuana was legalized, to 2015.⁵¹

Supporting Politicians Who Undermine the Social Safety Net

Opioid profiteers have given prodigiously to politicians who have prioritized slashing taxes on the wealthy, preserving loopholes to allow investment firms to dodge taxes, and privatizing public services.

https://www.vanityfair.com/news/2016/11/john-paulson-trump-favor-to-ask ☆

VANITY FAIR

HEDGE-FUND MANAGER JOHN PAULSON GOT TRUMP ELECTED, AND NOW HE'S GOT A FAVOR TO ASK

Nothing big, just privatize Fannie Mae and Freddie Mac when you get a chance.

BY BESS LEVIN
NOVEMBER 21, 2016 9:28 AM



Paulson, right, with Trump at a lunch hosted by the Economic Club of New York in September. By Spencer Platt/Getty Images.

John Paulson is a billionaire many times over who made a massive amount of money for himself and his clients during the financial crisis, betting against the housing market. Since then, things have gone less swimmingly for J.P. and the people whose capital is tied up in Paulson & Co., to the extent that one might wonder aloud why the hedge-fund manager hasn't just nacked up his things and zone home (to his 28,500-square-foot town house). In

In the 2016 campaign season alone, John Paulson notably donated at least \$330,000 to the Donald Trump Presidential campaign, the National Republican Congressional Committee, and the Republican National Committee.⁵² Paulson also hosted a \$50,000-a-head fundraiser that was estimated to have raised between \$5 million and \$7 million for the Trump campaign at the exclusive Le Cirque restaurant in New York City. Shortly thereafter, Paulson was named to Trump campaign’s economic advisory team.⁵³

Outside of Trump, Paulson was a major 2016 donor to Republican House Majority Leader Paul Ryan. Paulson gave the maximum \$2,700 donation to Ryan’s campaign committee and \$100,000 to the Ryan-NRCC Victory Committee. Ryan has notoriously sought to reduce taxes on corporations and on the very rich, gut social programs, and privatize Social Security.⁵⁴

Other opioid profiteers have supported Trump and GOP austerity hawks as well, though with less dramatic numbers. John Kapoor of Insys Therapeutics made a maximum donation of \$2,700 to Trump's campaign and another \$2,700 to the Trump Victory Fund in 2016 in addition to a \$200 donation to Paul Ryan.

Trump and Ryan's main legislative victory after securing power in the 2016 election was a massive set of tax cuts passed in late 2017 that would increase the US government deficit by \$1 trillion over the next ten years. Those cuts are already being cited as justification for proposed cuts to Medicare, Medicaid, and Social Security.

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High-Profile Government and Class Action Settlements against Opioid Companies, 2004–2017.*

Case	Key Dates	Allegations	Settlement Details
State and local suits			
<i>West Virginia ex rel. McGraw v. Purdue Pharma L.P.</i>	Nov. 5, 2004 (settled)	Aggressively marketing OxyContin to state residents, many of whom became addicted Concealing from prescribers the extent to which OxyContin's qualities could lead to addiction	\$10 million paid over 4 yr to support drug abuse and education programs, law-enforcement initiatives, and medical programs on drug abuse No fault admitted
<i>State of Oregon ex rel. Hardy Myers v. Purdue Pharma L.P. et al.</i>	May 8, 2007 (settled)	Unlawfully marketing OxyContin for off-label uses Misbranding OxyContin as “less addictive, less subject to abuse and diversion, and less likely to cause tolerance and withdrawal than other pain medications”	\$19.5 million Purdue pledged not to promote OxyContin for off-label uses Requires Purdue to maintain abuse- and diversion-detection program, report problem prescribing, and have field sales personnel undergo special training before selling OxyContin No fault admitted
<i>Commonwealth of Kentucky, ex rel. Jack Conway, Attorney General v. Purdue Pharma L.P. et al.</i>	Oct. 4, 2007 (filed) Dec. 23, 2015 (settled)	Committing Medicaid fraud by misrepresenting the risks and benefits of OxyContin, thereby costing Kentucky Medicaid millions in drug and treatment costs Engaging in false advertising by means of false and misleading package inserts, promotion, and marketing Reaping unjust enrichment by profiting from OxyContin while state paid associated medical and drug costs	\$24 million paid over 8 yr, to be spent on addiction treatment No fault admitted Judge granted media request to unseal the court documents to make Purdue practices known to the public
<i>State of West Virginia, ex rel. Patrick Morrissey v. Cardinal Health, Inc.</i>	June 26, 2012 (filed) Jan. 9, 2017 (settled)	Violating West Virginia Controlled Substances Act by failing to diligently respond to suspicious orders Engaging in unfair and deceptive practices, in violation of the West Virginia Consumer Credit and Protection Act Creating a public nuisance because diversion of drugs led to increased crime and consumption of law-enforcement and health care resources Reaping unjust enrichment while state expended substantial resources on prescription opioid epidemic	\$20 million paid by Cardinal Health (distributor) \$16 million paid by AmerisourceBergen (distributor) \$2.4 million paid by Miami-Luken (distributor) No fault admitted
<i>The People of the State of California v. Purdue Pharma L.P. et al.</i>	May 21, 2014 (filed) May 24, 2017 (settled with Teva)	Engaging in false advertising by deceptively marketing opioid drugs meant for short-term use as appropriate for chronic pain Engaging in unfair competition, in violation of the California Unfair Competition Law Creating a public nuisance under California law by engaging in deceptive marketing that led to an epidemic of opioid abuse	\$1.6 million paid by Teva Pharmaceuticals, to be spent on combatting the ongoing opioid epidemic impacts in Santa Clara and Orange Counties Bars Teva from deceptive marketing No fault admitted by Teva Charges against Purdue, Endo Health Solutions, Janssen, and Actavis remain unresolved, although litigation stayed by state court judge pending outcome of FDA studies related to risks of long-term opioid treatment
<i>The People of the State of Illinois v. Insys Therapeutics, Inc.</i>	Aug. 25, 2016 (filed) Aug. 18, 2017 (settled)	Violating the Illinois Consumer Fraud Act by engaging in the unfair and deceptive practices of deliberately marketing Subsys, the synthetic opioid approved for breakthrough cancer pain, for off-label purposes to high-volume opioid prescribers and paying prescribers to prescribe Subsys under a sham speaker program	\$4.45 million No fault admitted Prohibits Insys from engaging in any false, misleading, or deceptive marketing and from promoting off-label use of its opioid drugs in Illinois Requires Insys to promote its opioid Subsys only to prescribers who are oncologists or who are enrolled in an applicable FDA Risk Evaluation and Mitigation Strategy
<i>Commonwealth of Massachusetts v. Insys Therapeutics, Inc.</i>	Oct. 5, 2017 (filed and settled)	Violating the Massachusetts Consumer Protection Act by engaging in unfair and deceptive acts of misleading health care professionals about the appropriate use of Subsys, including by promoting the drug for off-label uses and paying kickbacks to health care professionals to induce them to prescribe Subsys	\$500,000 No fault admitted Prohibits Insys from engaging in any unfair or deceptive marketing practices of Subsys in Massachusetts, including for off-label purposes or by paying kickbacks to prescribers Prohibits Insys from promoting Subsys to any health care professional unless he or she provides cancer care or is enrolled in an applicable FDA Risk Evaluation and Mitigation Strategy
Federal suits			
<i>United States of America v. The Purdue Frederick Company, Inc., et al.</i>	May 10, 2007 (filed) June 25, 2007 (settled)	Violating FDCA by misbranding OxyContin with the intent to defraud or mislead	\$600 million paid by Purdue \$34 million paid by three of Purdue's top executives Parties admitted to misleading physicians and patients about product's addictiveness and misbranding it as abuse-resistant
<i>United States of America v. Cardinal Health, Inc.; United States of America v. Kinray, LLC</i>	Dec. 23, 2016 (settled)	Violating CSA by failing to report suspicious orders of controlled substances to pharmacies in Maryland, Florida, and New York Violating Washington record-keeping laws	\$44 million, consisting of \$34 million pursuant to <i>Cardinal</i> settlement and \$10 million pursuant to <i>Kinray</i> (acquired by Cardinal in 2010) settlement Cardinal admitted failure to report suspicious orders to the DEA
<i>United States of America v. McKesson Corporation</i>	Jan. 5, 2017 (settled)	Violating CSA by failing to maintain effective controls against diversion of controlled substances, including opioids, and to report suspicious orders to the DEA Violating 2008 administrative agreement with federal government to monitor sales and report suspicious orders to the DEA	\$150 million Requires McKesson to suspend sales of controlled substances from distribution centers in Colorado, Ohio, Michigan, and Florida for 1–3 yr Because McKesson admitted failure to report suspicious pharmacy orders, it agreed to enhanced compliance with earlier 2008 agreement (which had also included a \$13.25 million settlement)
<i>United States of America v. Mallinckrodt, Inc.</i>	July 11, 2017 (settled)	Violating CSA by failing to notify DEA of suspicious orders, as well as failing to implement an effective system to detect such orders	\$35 million Allows DEA to analyze data Mallinckrodt collects on orders from customers No fault admitted
Foreign suits			
<i>Canada-wide class proceedings v. Purdue Pharma et al.</i>	June 8, 2007 (commenced) Aug. 24, 2017 (settlement approved)	Failing to disclose the known risk of addiction and withdrawal associated with OxyContin and OxyNEO to a class of persons who were prescribed and ingested these products from Jan. 1, 1996, through Feb. 28, 2017	\$20 million (Canadian) settlement proposed and accepted by three of four jurisdictions overseeing the cases, consisting of \$2 million to provincial health providers, \$4.5 million in legal fees, and ~\$13,000–\$17,000 per class member

* CSA denotes Controlled Substances Act; DEA Drug Enforcement Agency; FDA Food and Drug Administration; and FDCA Food, Drug, and Cosmetic Act.

The background of the image is a close-up photograph of numerous pills. Most of the pills are light blue and oval-shaped, scattered across the frame. In the bottom left corner, there is a single red, round pill. The pills are slightly out of focus, creating a sense of depth. The text is overlaid on this background.

**POLICIES
TO FIGHT THE
OVERDOSE
EPIDEMIC AND
HEAL OUR
COMMUNITIES**

OPIOID PRESCRIBING TAX + WINDFALL PROFITS TAX



The opioid crisis has meant big money for America's largest pharmaceutical manufacturers, wholesale distributors and retailers; and big payouts for their CEOs.

As reported by Kaiser Health News,⁵⁵ "the sale of prescription opioids, and overdoses from them, have nearly quadrupled since 1999...Almost 2 million people misused or were addicted to the painkiller medications as of 2014." According to the US Department of Health and Human Services, 116 people died every day from opioid-related drug overdoses and 11.5 million people misused prescription opioids in 2016.⁵⁶

Excise or sales taxes on opioid pharmaceuticals could provide a foundation for new, targeted treatment programs going forward. But a windfall profits tax on billionaire opioid profiteers and Big Pharma could do even more.

Communities seeking large amounts of new funding to quickly build a public health response that's big enough to respond to the overdose and addiction epidemic have to go where the money is -- and that means a tax on the profits and the fortunes of the opioid profiteers.

EXCISE TAXES

As the epidemic worsens and the need for resources continues to climb, state and national lawmakers are becoming increasingly interested in using their taxing powers to tax to fund treatment programs.

Last year West Virginia Senator Joe Manchin introduced a bill⁵⁷ to impose a federal excise tax on opioid sales. The law would impose a one cent per milligram tax on the sale of active opioids by a manufacturer, producer, or importer. Prescription drugs used for the treatment of opioid addiction as part of a medically assisted treatment effort would be exempt. The revenue would be earmarked for state run addiction treatment programs.

In the states, Alaska introduced an opioid tax last year.⁵⁸ It would impose a 1-cent-per-milligram opioid tax on the import or manufacture of opioids. The revenue from the tax would go to fund programs for the prevention and treatment of alcohol and drug abuse. The tax would not apply to a prescribed drug that is used exclusively for the treatment of opioid addiction.

California's Opioid Addiction Prevention and Rehabilitation Act,⁵⁹ introduced last year, would impose a tax of \$0.01 per milligram of active opioid ingredient on manufacturers and wholesalers of opioids. The bill would establish an Opioid Prevention and Rehabilitation Program (OPRP) that would fund addiction prevention and rehabilitation programs.

Lawmakers in Delaware also proposed a 10% tax on the sellers of opioids.⁶⁰ It would apply to manufacturers, producers, importers, and distributors of opioids in the state. It would also exempt opioids used to treat opioid addiction.

New York Governor Andrew Cuomo also proposed a tax on opioids in his 2018 state executive budget proposal.

As written, the tax would impose a surcharge of two cents per morphine milligram equivalent sold in the

state. This tax would apply equally to all establishments making the first sale of the drug, and attempts to build in protections for customers to ensure that the surcharge is paid by sellers, not patients. It was not approved by the Legislature in the final budget.

WINDFALL PROFITS TAX

While excise taxes are useful for funding treatment services, they do not get at an important issue. Profiting off of addiction and human misery is wrong. A windfall profits tax would be a direct way to limit profiting from tragedy and deter future malfeasance.

The classic example of a windfall profits is the 1980's federal Crude Oil Windfall Profit Tax Act (P.L. 96-223). CRS notes that the tax:

“purpose of the tax was to recoup for the federal government much of the revenue that would have otherwise gone to the oil industry as a result of the decontrol of oil prices. Supporters of the tax viewed this revenue as an unearned and unanticipated windfall caused by high oil prices, which were determined by the OPEC (Organization of Petroleum Exporting Countries) cartel.”⁶¹

A windfall profits tax is in order when corporations are able to generate excessively high profits due to abnormal market conditions or manipulation.

We believe that the manipulation and system-rigging of the opioid profiteers and the impact of the opioid addiction crisis is generating such conditions.

The litigation across the country against opioid distributors and manufactures bears this out. A federal judge overseeing a consolidated case⁶² that includes lawsuits filed by communities across the country against the pharmaceutical industry has invited state attorneys general to provide input.

Among the allegations in the cases is that pharmaceutical companies have been intentionally misleading patients about the dangers of opioids and promoting

benefits of the drugs not backed by science. 13 states have filed suit, including Alaska⁶³, Kentucky, Louisiana, Mississippi, Missouri, Montana⁶⁴, New Hampshire, New Jersey⁶⁵, New Mexico, Ohio, Oklahoma, South Carolina and Washington⁶⁷ state.

Most recently, Mayor Bill de Blasio announced that New York City had filed a lawsuit against the manufacturers and distributors of opioid prescription drugs.⁶⁸

Even as legitimate uses for the drug exist, and certain patients have a legitimate need for the drug, the market has unfairly rewarded distributors and manufacturers. No matter the outcome of this litigation, the state would be served well to have a mechanism like a windfall profits tax in place to serve the public interest.

A windfall profits tax is in order when corporations are able to generate excessively high profits due to abnormal market conditions or manipulation.

What A Windfall Profits Tax Should Look Like

Legislation could be written to direct the Food and Drug Administration or state health departments to set a baseline for opioid consumption in 1999 or a prior year, and measure the volume of sales against the population growth in the state.

Sales above a level determined as normal should be taxed at a much higher rate than current excise tax proposals. The federal crude oil windfall profit tax used a variety of rates depending on the type of oil, ranging from 22.5% to 70%.

The tax should be applied equally to all taxable distributors and manufacturers in the state once the “normal” amount of opioids had been sold for the year.

The tax should be applied both retroactively and going forward, as an explicit effort to raise revenue to deal with the externalities -- social and human costs -- of the private profits earned by these companies from flooding the market with dangerous addictive drugs.

Public Health Policies

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OPIOID PRESCRIBING TAX AND WINDFALL PROFITS TAX FOOTNOTES:

55 “Can We Tax Away The Opioid Crisis?”, Pauline Bartolone, April 14, 2017.

<https://khn.org/news/can-we-tax-away-the-opioid-crisis/>

56 “About the U.S. Opioid Epidemic”, US Department of Health and Human Services.

<https://www.hhs.gov/opioids/about-the-epidemic/>

57 S.523 - Budgeting for Opioid Addiction Treatment Act.

<https://www.congress.gov/bill/115th-congress/senate-bill/523>

58 <http://www.legis.state.ak.us/PDF/30/Bills/HB0196A.PDF>

59 https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB1512

60 <https://legis.delaware.gov/BillDetail?LegislationId=26005>

61 <http://www.taxhistory.org/thp/readings.nsf/ArtWeb/B9E4D38FED6CBF7F8525745900099A55?OpenDocument>

62 <https://wtop.com/national/2018/01/judge-invites-ohio-attorney-general-to-discuss-opioid-crisis/>

63 <https://www.adn.com/alaska-news/2017/10/31/alaska-sues-drug-maker-purdue-pharma-saying-its-oxycotin-stoked-opioid-crisis/>

64 <https://www.reuters.com/article/us-montana-opioids/montana-sues-oxycotin-maker-purdue-over-opioid-epidemic-idUSKBN1DY2K5>

65 <https://www.reuters.com/article/us-purdue-pharma-new-jersey-opioids/new-jersey-sues-oxycotin-maker-links-marketing-to-opioid-crisis-idUSKBN1D0294>

66 http://www.cleveland.com/metro/index.ssf/2017/05/ohios_opioid_lawsuit_against_5.html

67 <http://www.atg.wa.gov/news/news-releases/ag-ferguson-sues-one-nation-s-largest-opioid-manufacturers-over-state-s-opioid>

68 <https://www.nytimes.com/2018/01/23/nyregion/nyc-de-blasio-opioid-lawsuit.html>

POLICIES TO FIGHT THE OVERDOSE EPIDEMIC AND HEAL OUR COMMUNITIES

At the Federal Level

At the federal level, public health, drug treatment and harm reduction professionals know what's needed to respond effectively to the opioid crisis:

- A stronger and stabilized Medicaid program with no drug tests or work requirements blocking access to treatment and care;
- A new \$100 billion categorical funding program for locally tailored lifesaving services (like the Ryan White Care Act that responded to the AIDS epidemic); and
- A bar on any measures to limit or ban syringe access or overdose prevention efforts.

At the State Level

And at the state level, professionals, communities and families know what works:

- Universal access to three life-saving public health tools: medication-assisted treatment, naloxone, and harm reduction services;
- A fully-funded health care system with access to lifesaving treatment and care for all, regardless of status or ability to pay; and
- Public education and outreach programs that provide accurate information and hope.

Excise or sales taxes on opioid pharmaceuticals could provide a foundation for scaling up these important programs going forward. And a windfall profits tax on billionaire opioid profiteers and Big Pharma could do even more.

ORGANIZING GROUPS

STATE	ORGANIZATION		CONTACT
NATIONAL	People's Action / People's Action Institute		Sondra Youdelman, <i>Strategic Advisor</i>
		People's Action is a bold progressive multiracial working class network of more than one million grassroots leaders, with 48 member organizations and 600 local staff across 30 states.	▪ s.youdelman@peoplesaction.org ▪ 718-839-4474 ▪ https://peoplesaction.org
NATIONAL	Center for Popular Democracy / CPD Action & The Opioid Network		Jennifer Flynn Walker, <i>Director of Mobilization and Advocacy</i>
		We're building a rising movement of people fighting for a future of opportunity, equality, and inclusion. CPD Action works on campaigns that expand the voice and power of workers, communities of color, and immigrants on issues of economic and racial justice.	▪ jflynn@populardemocracy.org ▪ 917-517-5202 ▪ https://cpdaction.org ▪ https://facebook.com/opioidnetwork
		We are a network of grassroots community based organizations, people who use drugs, family members & providers who are committed to justice.	

STATE	ORGANIZATION		CONTACT
DC	SPACEs (Safe Places for the Advancement of Community and Equity)		LaDon James, ▪ ladon.spaces@gmail.com ▪ http://thespacesproject.org ▪ populardemocracy.org/our-partners/spaces
		SPACEs works with individual leaders and organizations to bridge the gap between vision and impact. We use community organizing, facilitation, service delivery, coaching/training and dialogue to bridge the gap between what leaders and communities envision and what they actually achieve.	
DE	Delaware Alliance for Community Advancement		Darlene Battle, <i>Executive Director</i> ▪ dbattle@delaca.org ▪ https://www.delaca.org
		DelACA's mission is to empower low and moderate income people to improve their lives and communities, through education, training, and organizing.	
IN	Hoosier Action		Kate Hess Pace, <i>Executive Director</i> ▪ kate@hoosieraction.org ▪ https://www.hoosieraction.org
		Hoosier Action launched in April 2017 to build the political power of Indiana's working families through robust community organizing.	
MD	Maryland Communities United		Jane Henderson, <i>Director</i> ▪ jane@communitiesunite.org ▪ 410-775-6673 ▪ http://communitiesunite.org
		Communities United is a grassroots, membership organization of low to moderate income individuals and families in Maryland.	

STATE	ORGANIZATION		CONTACT
MI	Michigan United		Caitlin Homrich-Knieling, <i>Community Organizer</i> ▪ caitlin@miunited.org ▪ 989-551-2248 ▪ http://www.miunited.org
		Michigan United is a statewide coalition fighting for the dignity of all people, an economy that works for the many, a participatory democracy that is strong, and a society that protects our civil rights.	
NH	Rights and Democracy (RAD-NH)		Molly Grover, <i>Digital Comm's Coordinator</i> ▪ molly@radnh.org ▪ 802-540-0365 James Haslam, <i>Executive Director</i> ▪ James@radvt.org ▪ http://www.radnh.org
		The Rights & Democracy Project is a bi-state grassroots organization in NH and VT whose mission is to bring people together to take action in building healthy communities and to make the values of our communities guide the policies of our government.	
NY	VOCAL-NY		Jeremy Saunders, <i>Co-Director</i> ▪ jeremy@vocal-ny.org ▪ 917-676-8041 ▪ http://www.vocal-ny.org
		VOCAL-NY is a membership organization dedicated to ending the drug war, mass incarceration, homelessness and the AIDS epidemic.	
OH	ProgressOhio		Tyler Dillon, <i>Communications Director</i> ▪ tyler@progressohio.org ▪ 937-267-6493 ▪ http://progressohio.org
		ProgressOhio works to promote progressive solutions, correct right-wing misinformation, and hold public leaders accountable, helping to make an Ohio that works for everyone.	

STATE	ORGANIZATION		CONTACT
OH	Ohio Organizing Collaborative (OOH)		Marcia Dinkins, <i>Director</i>
		the Ohio Organizing Collaborative (OOC) is an innovative statewide organization across Ohio. We are a coalition of 20 organizations with members in every major metropolitan area across the state, working on issues including criminal justice reform, defense of healthcare and safety net programs, police accountability, and equitable public investment.	▪ marcia@ohorganizing.org ▪ http://ohorganizing.org
PA	ACT UP Philadelphia		Jose DeMarco
		Since its inception, ACT UP has used a diversity of direct action tactics to address social inequities that threaten people living with HIV/AIDS and those at risk of infection, both in Philadelphia and around the world.	▪ actupphilly@gmail.com ▪ 267-333-0032 ▪ www.actupphilly.org
TN	Tennessee Citizen Action (TNCA)		Andy Spears, <i>Executive Director</i>
		Tennessee Citizen Action works in the public interest as Tennessee's premier consumer rights organization with a mission to work to improve the overall health, well-being, and quality of life for all people who live and work in Tennessee.	▪ andy@tnca.org ▪ 615-815-4544 ▪ http://tnca.org

STATE	ORGANIZATION		CONTACT
VT	Rights and Democracy (RAD-VT)		Shay Totten, <i>Communications Director</i>
		The Rights & Democracy Project is a bi-state grassroots organization in NH and VT whose mission is to bring people together to take action in building healthy communities and to make the values of our communities guide the policies of our government.	▪ shay@radvt.org ▪ 802-324-3198 James Haslam, <i>Executive Director</i> ▪ James@radvt.org ▪ http://www.radnh.org
WV	West Virginia Citizen Action Group (WV CAG)		Gary Zuckett, <i>Executive Director</i>
	 West Virginia Citizen Action Group	Working to build a people powered policy & politics, West Virginia Citizen Action Group (WV CAG) has advocated since 1974 for better public policy, rights of individuals, a clean environment, and a stronger democratic process.	▪ garyz@wvcag.org ▪ 304-437-3701 ▪ https://wvcag.org



KEY FINDINGS



A small number of extraordinarily wealthy American families and executives have made billions from the illegal and immoral marketing of dangerous opioid painkillers over the past two decades, setting off our current addiction and overdose crisis.

It's time for a windfall profits tax on the opioid fortunes and a prescribing tax on opioid painkillers to fund a massive scale-up of drug treatment, health care, and public health resources sufficient to meet the needs of every community in the United States of America.

A Billionaire-Created Social Crisis

- For the last two decades, a small number of unscrupulous pharmaceutical executives exploded the production and marketing of dangerous opioid pharmaceuticals, pushing far beyond legitimate pain treatment toward a crisis of addiction and overdose.
- The opioid profiteers include the Sackler Family of Purdue Pharmaceutical; John Hammergren of McKesson Corporation; James Flynn of Deerfield Management; John Kapoor of Insys Pharmaceutical; hedge fund billionaire John Paulson of Paulson & Co.; and private equity billionaire David Bonderman of TPG Capital.
- These billionaires and multimillionaires rigged the system with aggressive, unethical and sometimes criminal marketing practices; payoffs to doctors and medical think tanks; flooded communities with oceans of dangerous pills and oral sprays; used lobbying and campaign cash to weaken regulation and prevent stronger laws; and supported politicians including Trump who want to tear down our safety net and take healthcare away from suffering communities.

Accountability and Responsibility: the Billionaires Should Pay

- The opioid profiteers built massive personal and corporate profits from our crisis of addiction and overdose, and they're not paying their fair share of the costs to society.
- The Hedge Clippers campaign recommends two key proposals that policymakers and communities can use to fight back: excise taxes and windfall profits taxes.
- Excise taxes on opioid production and prescribing at the federal and state level will provide steady funds for needed health care, drug treatment & public health interventions.
- A windfall profits tax specifically targeting massive opioid pharmaceutical profits and fortunes would raise billions right now and assure some measure of justice and fairness for American communities the profiteers abandoned to clean up their mess.

WHO ARE THE HEDGE CLIPPERS?

Every day, the most unscrupulous hedge fund managers, private equity firms and Wall Street speculators impact the lives of Americans. They play an outsized role in our political process, our education system, and our economy. Hedge Clippers is a national campaign focused on unmasking the dark money schemes and strategies the billionaire elite uses to expand their wealth, consolidate power and obscure accountability for their misdeeds. Through hard-hitting research, war-room communications, aggressive direct action and robust digital engagement, Hedge Clippers unites working people, communities, racial justice organizations, grassroots activists, students and progressive policy leaders in a bold effort to expose and combat the greed-driven agenda that threatens basic fairness at all levels of American society.

The Hedge Papers are researched, written, edited, reviewed and designed by a distributed, networked team of researchers, writers, academics, attorneys, industry experts, community organizers and designers from around the United States, with contributions from international activists.

We welcome contributions from whistleblowers, industry insiders, journalists, lawmakers and regulatory officials as well as from regular Americans who have felt the destructive impact of hedge funds, private equity funds and the billionaire class in their daily lives.

Our collective includes individuals associated with labor unions, community organizations, think tanks, universities, non-governmental organizations, national and international organizing and advocacy networks, student and faith groups as well as non-profit and for-profit organizations.

The Hedge Clippers campaign includes leadership and collaborative contributions from labor unions, community groups, coalitions, digital activists and organizing networks around the country, including: the Strong Economy for All Coalition, New York Communities for Change, Alliance for Quality Education, VOCAL-NY and Citizen Action of New York; Make the Road New York and Make the Road Connecticut; New Jersey Communities United; the Alliance of Californians for Community Empowerment (ACCE) and Courage Campaign; the Grassroots Collaborative in Illinois; the Ohio Organizing Collaborative; ISALAH in Minnesota; Organize Now in Florida; Rootstrikers, Every Voice, Color of Change, 350.org, Greenpeace, the ReFund America Project and United Students Against Sweatshops; the Center for Popular Democracy and the Working Families Party; People's Action and the Overdose Crisis Cohort; the United Federation of Teachers and New York State United Teachers; the American Federation of Teachers, the National Education Association, and the Communication Workers of America.

PRESS + GENERAL INQUIRY CONTACTS

**For information on
state and local action
to close the carried
interest loophole:**

Charles Khan

Strong Economy For All Coalition/
Hedge Clippers

▪ charles.e.khan@strongforall.org

Michael Kink

Strong Economy For All Coalition/Hedge Clippers

▪ michael.kink@strongforall.org

**For general press inquiries
on the Hedge Clippers
campaign:**

Dan Morris

Progressive Cities

▪ dan.morris@progressivecities.com

▪ 917-952-8920

**For information on
national organizing of
communities and families
hit by the opioid crisis:**

Jennifer Flynn

Center for Popular Democracy/
Opioid Network

▪ jflynn@populardemocracy.org

Sondra Youdelman

People's Action

▪ s.youdelman@peoplesaction.org

Jeremy Saunders

VOCAL-NY

▪ jeremy@vocal-ny.org

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