

Opioids in America

August 2018

Presented by:

Moderator:

Jennifer Schoenthal, Miscellaneous Medical Underwriter, Beazley

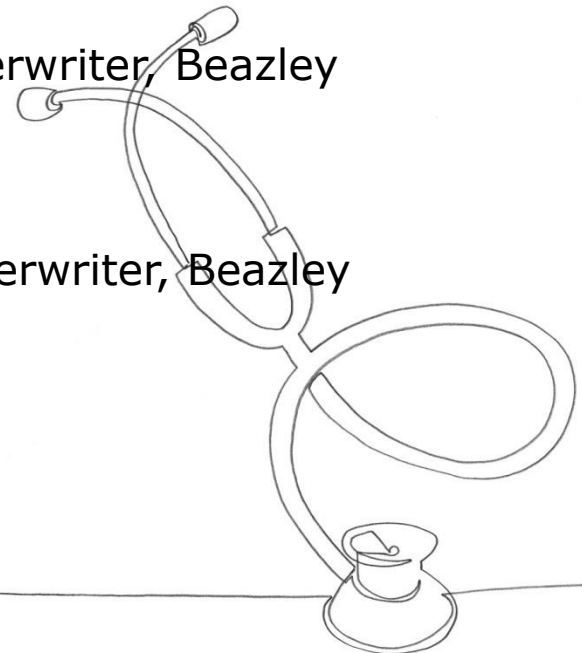
Panel:

Ernie Koschineg, Esq. Cipriani & Warner, P.C.

Christopher Dunlavy, Miscellaneous Medical Underwriter, Beazley

Marc Amis, Life Sciences Underwriter, Beazley

beazley



What is the current state of the crisis?

- The US has 4.4% of the world's population and 30% of the opioids
- The sale of prescription opioids quadrupled in the US from 1999 to 2014
- Epidemic started with prescription drugs
- Heroin overdose deaths have risen 533% since 2002
- Overdoses from Opioids last year surpassed all US deaths in Vietnam
- Trump has declared a Public Health Emergency
- It's almost never just one drug
- In 2015 deaths in the US from opioids surpassed deaths from gun homicides and motor vehicles combined.

Opioid Epidemic Timeline

- Successful lobbying for increased use of opioids
- Physicians expanded treatment of pain and new options in market
- Pharma marketing to healthcare providers increased
- By 1999, 4m using prescription drugs non-medically (=2%)



- FDA and pharma manufacturers responded with abuse-deterrent product formulations
- Education on proper opioid prescribing and use
- 48 states implemented drug monitoring programs



1980s



JUST SAY NO!

- American pain landscape characterized by 'Opiophobia'
- President Regan asked Americans to not tolerate drugs by anyone, anytime and anyplace.
- 4-5m people on cocaine vs 500k hooked on heroin

1990s

2000
-
2009



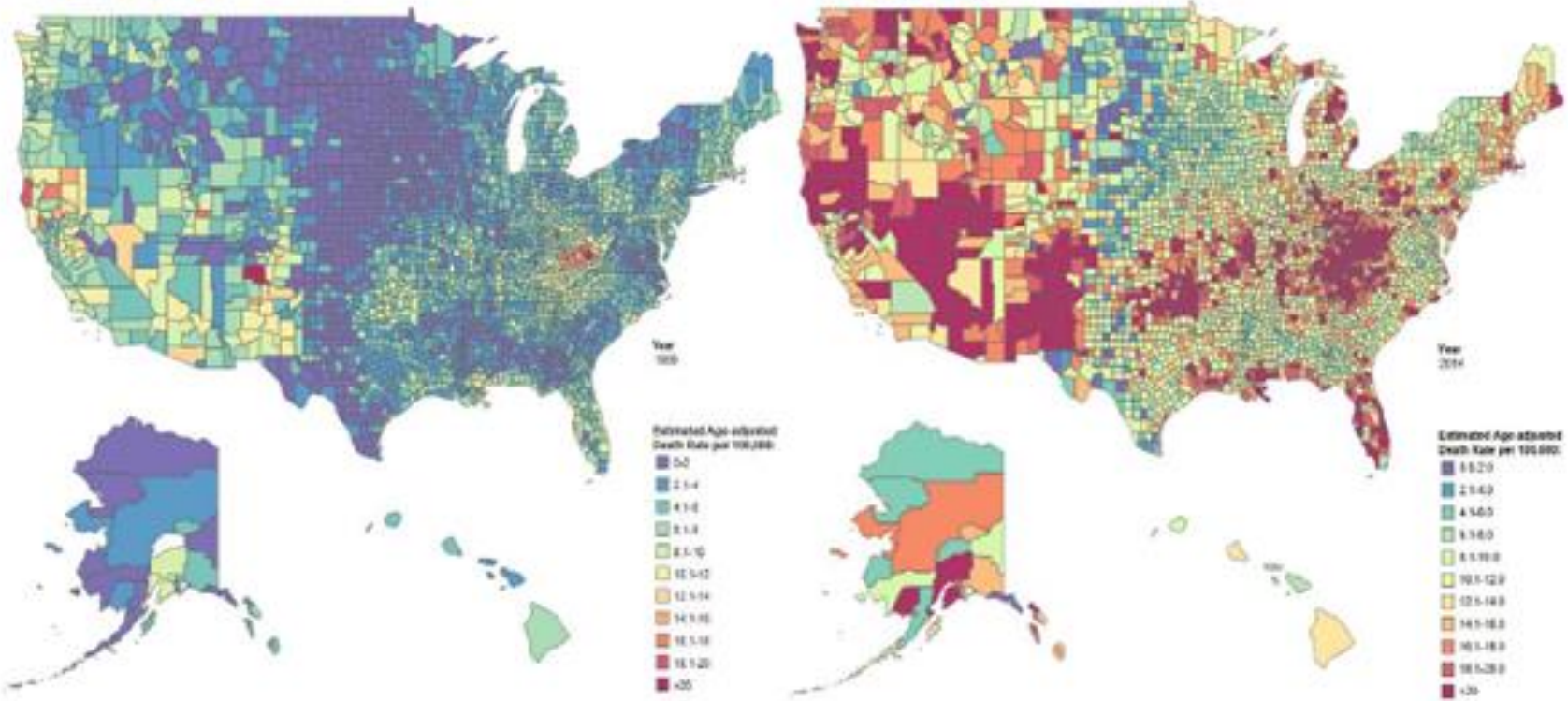
- Pain management was the 'fifth vital sign', per JCAHO guidance
- Opioid prescribing increased
- Abuse & misuse of opioids doubled between 1998 and 2008.

2010
-
Today

Overdose Death Rates

1999

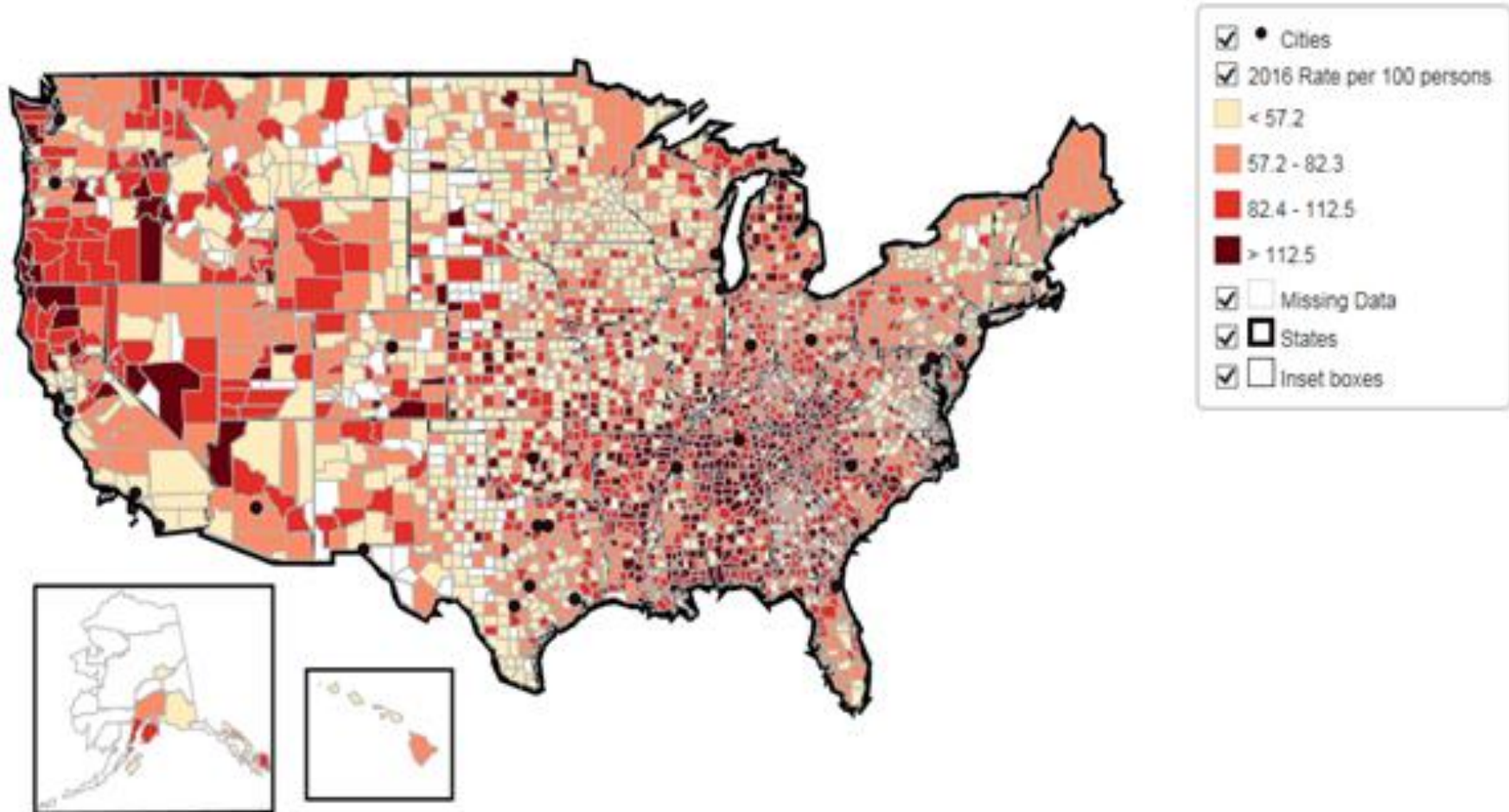
2014



Designed by L. Rossen, B. Bastian & Y. Chong. SOURCE: CDC/NCHS, National Vital Statistics System

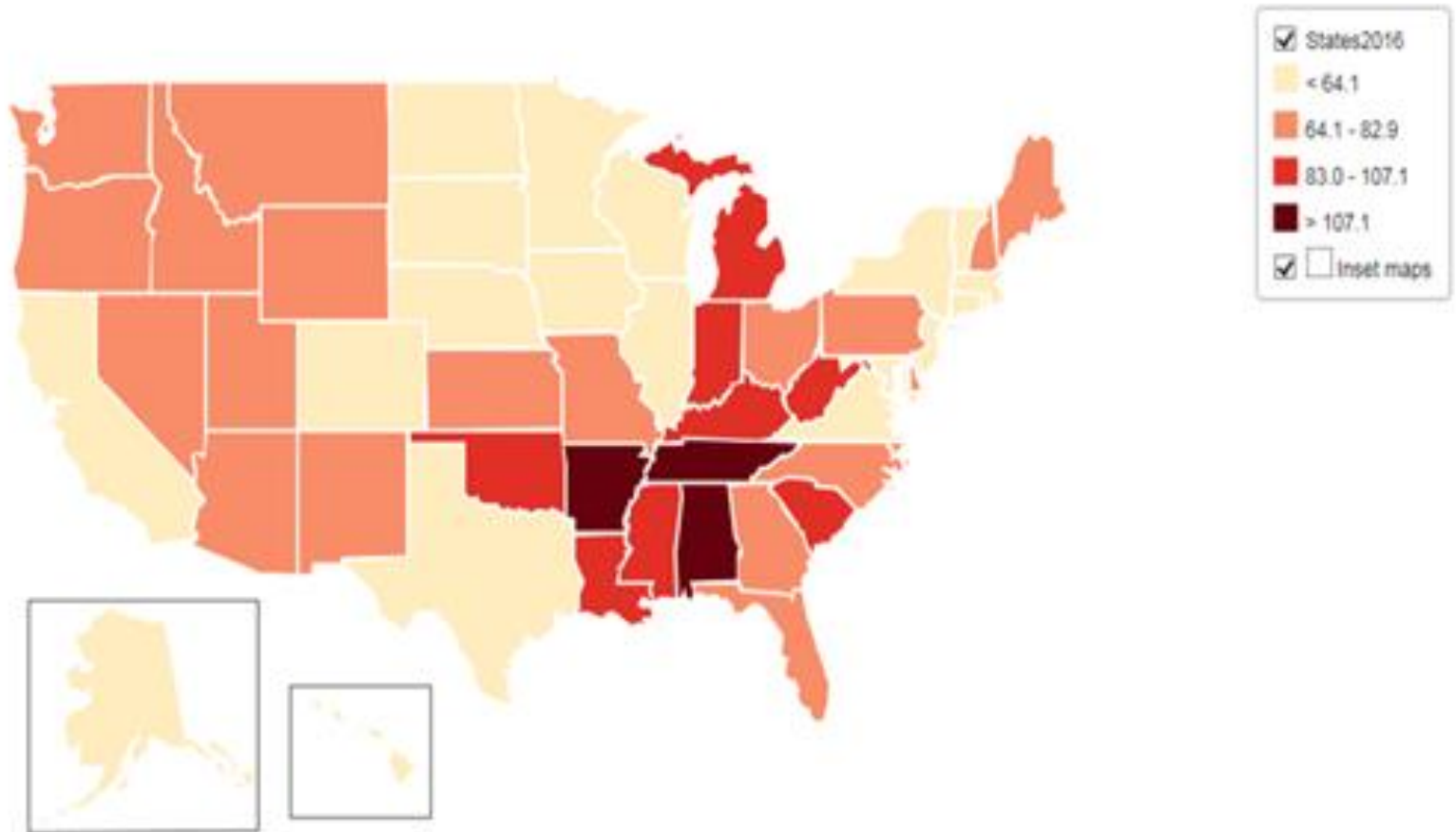
Science = Solutions

U.S. County Prescribing Rates 2016

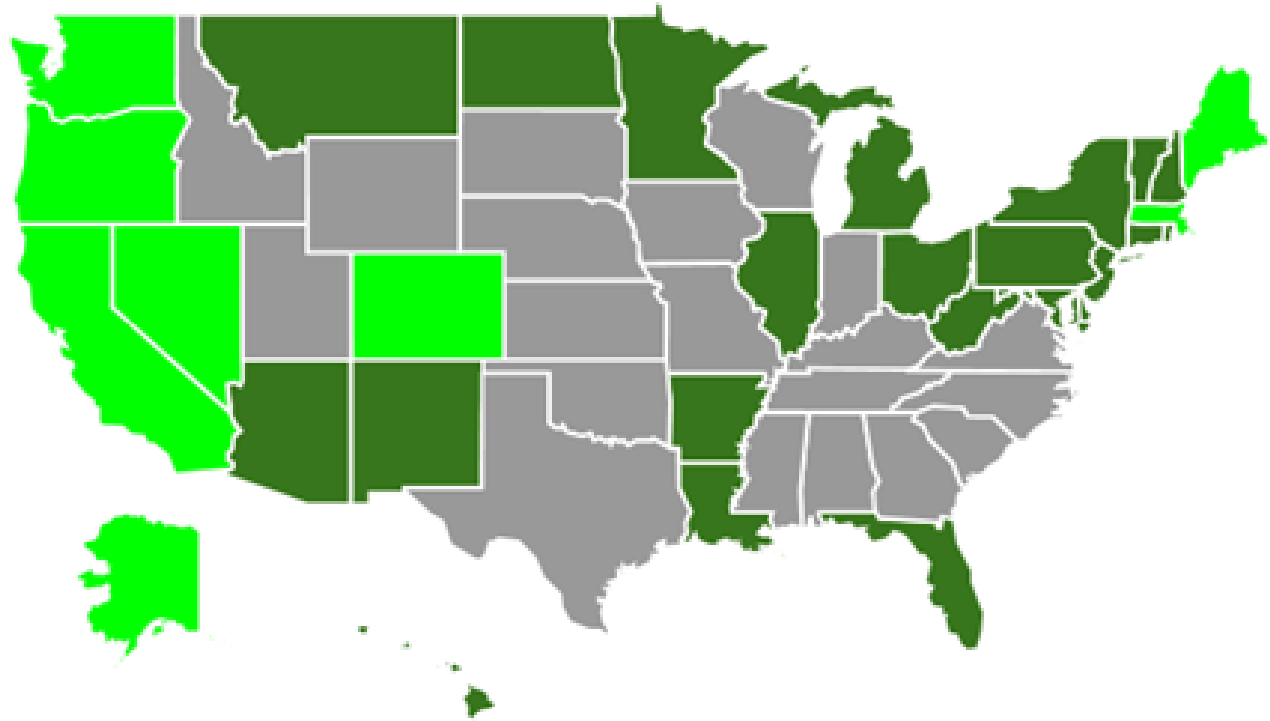


Variation by state

Prescription rates by state in 2016:



Is opioid abuse less severe where marijuana is legalized?



Marijuana Legalization Status

- Medical marijuana broadly legalized
- Marijuana legalized for recreational use
- No broad laws legalizing marijuana

What types of Insureds are affected?

- Physicians and prescribers
- Hospitals, nursing homes and clinics
- Pharmacies
- Drug Wholesalers and manufacturers
- Health plans
- Hospital Accreditors
- Pharmaceutical

Medical Malpractice

- Physicians,
- Hospitals
- Correctional Health
- Social Services
- Drug & Alcohol Facilities
- Pain Management Clinics
- Etc.

Products Liability

- Manufacturers
- Distributors
- Dispensaries
- PBM's

D&O

- Shareholder Actions
- Regulatory Activity

EPL

- Wrongful Termination



Where are the lawsuits coming from?

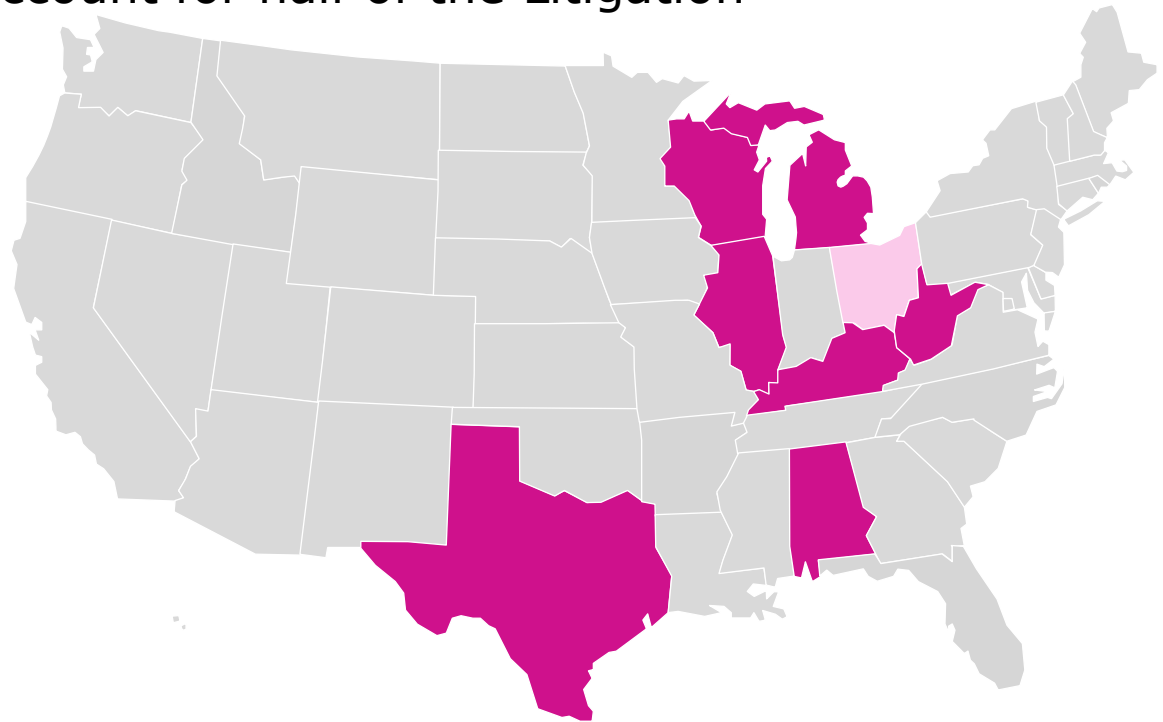
Possible Plaintiffs:

- **Individual Patients**
- **Governments**
- **Class Action/MDL**

Where are the lawsuits coming from?

The Opioids MDL:

- 540 Individual Cases consolidated in the MDL (as of April 2018)
- From municipalities in 40 States
- 8 States, however, account for half of the Litigation
 - Ohio
 - Wisconsin
 - Alabama
 - Kentucky
 - Michigan
 - West Virginia
 - Texas
 - Illinois

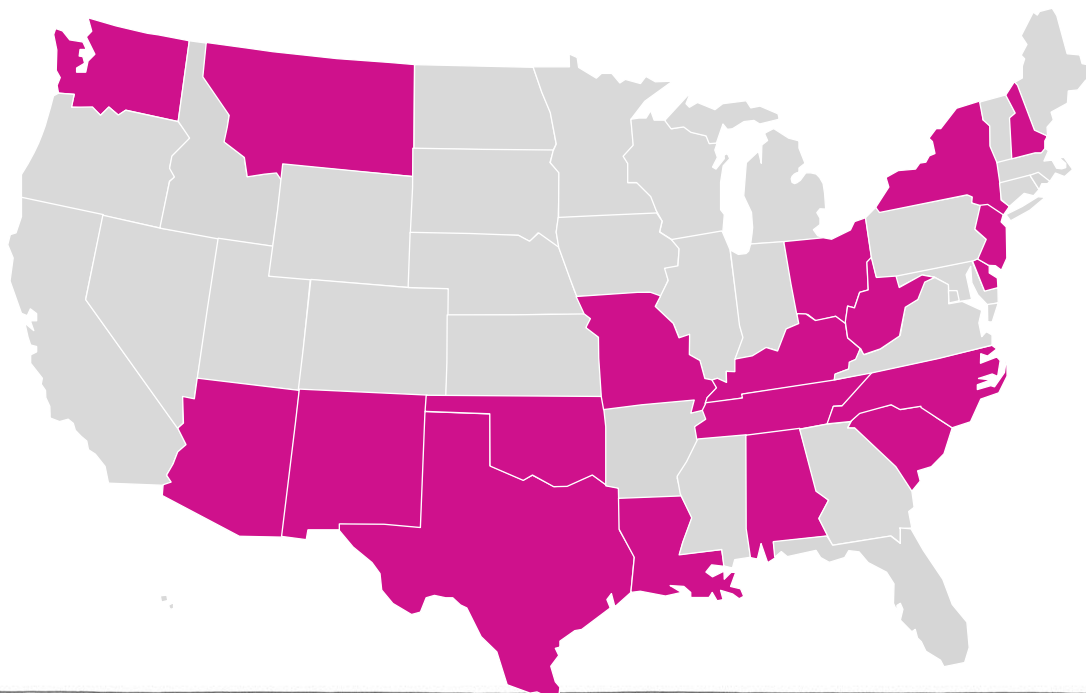


Opioids MDL Basics

- Defendants include:
 - Manufacturers (ie: Purdue, Teva, Johnson & Johnson, Allergan...)
 - Distributors (ie: Amerisource, McKesson, Omnicare...)
 - Pharmacy Benefits Managers (ie: CVS, Krogers, Rite Aide, WalMart...)
 - 24 Individual Physicians
 - 3 Physician Groups
- Allegations include:
 - False Advertising
 - Public Nuisance
 - RICO (Racketeer Influenced and Corrupt Organizations Act)
 - Deceptive Trade Practices
 - Fraud
 - Negligence
 - Negligent Misrepresentation

Additional Opioid Litigation

- State Governments have commenced litigation *NOT* included in the MDL
- 40 State Attorneys General are currently investigating
- The Cherokee nation is pursuing a suit as well



General Allegations Against Defendants:

1. Misrepresenting the risk of use and potential addiction of opioids
2. Falsely reporting the existence and findings of research behind opioids
3. Falsely claiming that withdrawal from opioids could be easily managed
4. Deceptive marketing
5. Branding advertisements to target those in chronic pain and the vulnerable, such as the elderly and veterans
6. Improperly marketed to doctors and other healthcare providers
7. Improper labeling, some in violation of government regulations
8. Promoting off-labeling sales tactics

Coverage Considerations

- **“for” vs “as a result of” language in response to suits brought by governmental entities**
- **Class action/Opioid exclusions**
- **Products exclusions**
- **Misrepresentation/Deceptive Marketing exclusions**
- **Intentional Acts exclusions**