

ONE HUNDRED FIFTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
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**MEMORANDUM**

**July 10, 2017**

**To: Subcommittee on Oversight and Investigations Democratic Members and Staff**  
**Fr: Committee on Energy and Commerce Democratic Staff**  
**Re: Hearing on “Combating the Opioid Crisis: Battles in the States”**

On **Wednesday, July 12, 2017 at 10:00 AM in room 2123 of the Rayburn House Office Building**, the Subcommittee on Oversight and Investigations will hold a hearing titled “Combating the Opioid Crisis: Battles in the States.”

**I. U.S. OPIOID EPIDEMIC CONTINUES TO HARM PUBLIC HEALTH**

The Centers for Disease Control and Prevention (CDC) has described prescription drug abuse in the United States as an epidemic.<sup>1</sup> According to CDC, 91 Americans die every day from an opioid overdose.<sup>2</sup>

Over the past three years, the Subcommittee has held multiple hearings on prescription opioid addiction and abuse and on fentanyl, in particular.<sup>3</sup> At these hearings, witnesses, including state and local addiction treatment experts, medical experts, and federal officials,

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<sup>1</sup> The White House, Office of National Drug Control Policy, *Prescription Drug Abuse* (obamawhitehouse.archives.gov/ondcp/prescription-drug-abuse1) (accessed July 5, 2017).

<sup>2</sup> Centers for Disease Control and Prevention, *Injury Prevention & Control: Opioid Overdose* (www.cdc.gov/drugoverdose/epidemic/index.html) (accessed July 5, 2017).

<sup>3</sup> House Committee on Energy and Commerce, *Fentanyl: The Next Wave of the Opioid Crisis*, 115<sup>th</sup> Cong. (Mar. 21, 2015); *Hearing on Examining the Growing Problems of Prescription Drug and Heroin Abuse: State and Local Perspectives*, 114<sup>th</sup> Cong. (Mar. 26, 2015); *Hearing on Combatting the Opioid Abuse Epidemic: Professional and Academic Perspectives*, 114<sup>th</sup> Cong. (Apr. 23, 2015); *Hearing on What is the Federal Government Doing to Combat the Opioid Abuse Epidemic*, 114<sup>th</sup> Cong. (May 1, 2015); *Hearing on What are the State Governments Doing to Combat the Opioid Abuse Epidemic*, 114<sup>th</sup> Cong. (May 21, 2015).

described the extent of the opioid epidemic and testified that serious impediments to widespread access to treatment persist.

At the most recent hearing on March 21, 2017, the Committee heard from several agency officials on the latest iteration of the opioid epidemic: fentanyl.<sup>4</sup>

## II. FENTANYL AND ITS ANALOGUES IN THE UNITED STATES

Fentanyl is a powerful synthetic opioid pain reliever, about 50 times more potent than heroin and up to 100 times more potent than morphine. Fentanyl is so strong that inhaling the equivalent of two grains of salt (just two milligrams) can be lethal.<sup>5</sup>

As a Schedule II drug under the Controlled Substances Act, fentanyl is legally available only through a nonrefillable prescription.<sup>6</sup> The primary cause of the current domestic emergency, however, is illicitly manufactured fentanyl.<sup>7</sup> Law enforcement has found such illicit fentanyl nationwide – often mixed into other illegal drugs.<sup>8</sup> In response to the growing fentanyl abuse problem, in March 2015 and June 2016, the U.S. Drug Enforcement Administration (DEA) issued nationwide public health and public safety alerts regarding the lethality of the drug.<sup>9</sup>

Experts believe China is currently the primary supplier of fentanyl now illegally entering the U.S.<sup>10</sup> Chinese producers supply a range of fentanyl products, including raw fentanyl, precursors, and analogues. One of these products, acrylfentanyl, can even be resistant to the life-saving antagonist naloxone.<sup>11</sup>

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<sup>4</sup> House Committee on Energy and Commerce, *Hearing on Fentanyl: The Next Wave of the Opioid Crisis*, 115th Cong. (Mar. 21, 2017).

<sup>5</sup> U.S. – China Economic and Security Review Commission, *Fentanyl: China's Deadly Export to the United States* (Feb. 2017).

<sup>6</sup> *Id.*

<sup>7</sup> U.S. Drug Enforcement Administration, *Fentanyl* (Dec. 2016) ([www.deadiversion.usdoj.gov/drug\\_chem\\_info/fentanyl.pdf](http://www.deadiversion.usdoj.gov/drug_chem_info/fentanyl.pdf)).

<sup>8</sup> *See* note 5.

<sup>9</sup> U.S. Drug Enforcement Administration, *DEA Warning to Police and Public: Fentanyl Exposure Kills* (June 10, 2016) ([www.dea.gov/divisions/hq/2016/hq061016.shtml](http://www.dea.gov/divisions/hq/2016/hq061016.shtml)); U.S. Drug Enforcement Administration, *DEA Issues Nationwide Alert on Fentanyl as Threat to Health and Public Safety* (Mar. 18, 2015) ([www.dea.gov/divisions/hq/2015/hq031815.shtml](http://www.dea.gov/divisions/hq/2015/hq031815.shtml)).

<sup>10</sup> *See* note 5.

<sup>11</sup> *Id.*; *Fentanyl Found in Georgia Resists Life-Saving Naloxone Antidote*, Newsweek (June 28, 2017) ([www.newsweek.com/fentanyl-georgia-naloxone-resistant-synthetic-opioids-acrylfentanyl-629846](http://www.newsweek.com/fentanyl-georgia-naloxone-resistant-synthetic-opioids-acrylfentanyl-629846)).

In response to the burgeoning production of illicit fentanyl in China, the U.S. and China have taken steps to increase counternarcotic cooperation, including strengthening regulations to control the movement of some fentanyl-related substances.<sup>12</sup> However, Chinese and U.S. authorities still face challenges stemming the flow of illicit fentanyl into the United States.<sup>13</sup>

### III. OPIOIDS AND ILLICIT FENTANYL ARE DIRECTLY IMPACTING STATES

State and local governments across the country are directly impacted by opioid addiction and illicit fentanyl. In West Virginia, where opioids kill someone every 10 hours, fentanyl has overtaken heroin as the leading cause of overdose-related deaths.<sup>14</sup> Columbus, Ohio, sees nearly one overdose death per day tied to fentanyl, and the coroner of Stark County, Ohio, had to request an additional cold-storage trailer to hold the bodies of overdose victims.<sup>15</sup> In Rhode Island this year, over 66 percent of drug overdose deaths have been associated with fentanyl – up from 50 percent in 2015.<sup>16</sup> Researchers in Rhode Island have found evidence that fentanyl is so pervasive that users of illicit opioids who want to avoid the drug may have a hard time doing so.<sup>17</sup>

In response, States have begun to develop innovative responses to address this growing health epidemic. Virginia requires prescribers to check the Commonwealth’s Prescription Monitoring Program for other opioid prescriptions in a patient’s name before issuing that patient a prescription for pills that exceeds 7 days.<sup>18</sup> Community groups in Ohio are working to distribute test strips that can help users detect the presence of fentanyl when it is mixed with heroin and other drugs.<sup>19</sup> Maryland recently passed legislation designed to more easily connect drug overdose victims to treatment and to limit prescribed opioids to the lowest possible dose.<sup>20</sup> Kentucky recently unveiled its new “Don’t Let Them Die” campaign, which establishes a website, [www.dontletthemdie.com](http://www.dontletthemdie.com), to provide detailed information on the risks of opioid use; directions regarding how to obtain naloxone, which can reverse the effects of opioids and stop an

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<sup>12</sup> See note 5.

<sup>13</sup> *Id.*

<sup>14</sup> *Overdose Deaths Continue to Rise in West Virginia*, U.S. News & World Report (Mar. 7, 2017); *New drug involved in more W.Va. overdose deaths than Heroin*, WVVA.com (June 1, 2017).

<sup>15</sup> *Fentanyl Crisis: Columbus, Ohio Has One Fatal Overdose Per Day*, NBC News (Mar. 17, 2017); *Drugs are Killing So Many People in Ohio that Cold-Storage Trailers are Being Used as Morgues*, Washington Post (Mar. 16, 2017).

<sup>16</sup> *Fentanyl-related deaths spiking in R.I., studies say*, Providence Journal (June 7, 2017).

<sup>17</sup> Brown University, *Feared by drug users but hard to avoid, fentanyl takes a mounting toll*, (June 7, 2017) (<https://news.brown.edu/articles/2017/06/fentanyl>).

<sup>18</sup> VA Code § 54.1-2522.1.

<sup>19</sup> *Test strips could help drug users detect deadly fentanyl*, Cleveland.com (June 21, 2017).

<sup>20</sup> *In the Opioid Crisis, Maryland is an example for the rest of the nation*, Washington Examiner (June 30, 2017); MD Health Code §§ 1-223; 5-903.

overdose; and a treatment hotline to connect those in need with addiction recovery specialists.<sup>21</sup> And a community group in Rhode Island has developed the “NaloxBox,” which is designed to give the members of the public immediate access to naloxone.<sup>22</sup>

In addition, several states have also brought suit against opioid distributors and manufacturers, alleging they are partly to blame for this growing crisis. Ohio, Illinois, Mississippi, West Virginia, four counties in New York, Santa Clara and Orange Counties in California, McDowell County and Cabell County in West Virginia, the city of Everett Washington, and the Cherokee Nation are among the jurisdictions that have filed lawsuits to this end.<sup>23</sup>

#### **IV. WITNESSES**

The following witnesses have been invited to testify:

**Boyd Rutherford**

Lieutenant Governor  
State of Maryland

**Brian Moran**

Secretary  
Secretariat of Public Safety and Homeland Security  
Commonwealth of Virginia

**Rebecca Boss**

Director  
Department of Behavioral Healthcare, Developmental Disabilities and Hospitals  
State of Rhode Island

**John Tilley**

Secretary  
Justice and Public Safety Cabinet  
Commonwealth of Kentucky

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<sup>21</sup> *Bevin unveils opioid awareness, touts stricter penalties*, Kentucky Today (June 27, 2017); Commonwealth of Kentucky, Don’t Let Them Die ([www.dontletthemdie.com](http://www.dontletthemdie.com)).

<sup>22</sup> *R.I. group wants to make drug overdose boxes as common as defibrillators*, Boston Globe (June 12, 2017).

<sup>23</sup> *Drugmakers and distributors face barrage of lawsuits over opioid epidemic*, Washington Post (July 4, 2017); *Are Pharmaceutical Companies to Blame for the Opioid Epidemic?*, The Atlantic (June 2, 2017); *Cherokee Nation sues drug firms, retailers for flooding communities with opioids*, Washington Post (Apr. 20, 2017); *OxyContin Maker Purdue Pharma Hit with Unprecedented Lawsuit by Washington City*, NBC News (Mar. 9, 2017).