



State Representative Brian Stewart

Sponsor Testimony on House Concurrent Resolution 34

April 27th, 2022

Chairman Wilkin, Vice-Chair White, Ranking Member Brown, thank-you for the opportunity to provide sponsor testimony in favor of House Concurrent Resolution 34, which will urge the Ohio delegation of the United States Congress to investigate the role which the consulting firm McKinsey & Company played in the opioid crisis which ravaged Ohio, and to prevent conflicts of interest between federal agencies and McKinsey.

McKinsey, one of the world's largest consulting firms, has admitted in court documents and class action settlements to devising strategies for its pharmaceutical clients to, in its own words, "turbocharge" sales of OxyContin pills into Ohio and therefore boost corporate profits. McKinsey benefitted from lucrative contracts with opioid distributors and retailers such as Purdue Pharma, AmerisourceBergen, McKesson, and others¹. In fact, it has been determined that roughly 90% of all opioid pills sold in the United States of America from 2006-2014 can be traced to the McKinsey & Company's consulting advice to these pharmaceutical clients.

The damages from this "advice" are staggering. From 1999 to 2019, 841,000 people in the U.S. died from a drug overdose, of which over 70% involved an opioid². In 2019, there were a total of 3,372 deaths involving opioids, which was 83.7% of all unintentional drug overdose deaths³. Additionally, preliminary data has revealed that in 2020, 5,018 Ohioans died from an

¹ Hassan, M., Grassley, C., Whitehouse, S., Markey, E., Manchin, J., & Warren, E. (2021, August 23). United States Senate. *Maggie Hassan United States Senator For New Hampshire*. Retrieved from https://www.hassan.senate.gov/imo/media/doc/fda-mckinsey_letter-final-210823.pdf.

² Centers for Disease Control and Prevention. (2022, February 22). *Drug Overdose Deaths*. Centers for Disease Control and Prevention. Retrieved 2022, from [https://www.cdc.gov/drugoverdose/deaths/index.html#:~:text=Nearly%20841%2C000%20people%20have%20died%20since%201999%20from%20a%20drug%20overdose.&text=In%202019%2C%2070%2C630%20drug%20overdose,2019%20\(21.6%20per%20100%2C000\)](https://www.cdc.gov/drugoverdose/deaths/index.html#:~:text=Nearly%20841%2C000%20people%20have%20died%20since%201999%20from%20a%20drug%20overdose.&text=In%202019%2C%2070%2C630%20drug%20overdose,2019%20(21.6%20per%20100%2C000)).

³ Ohio Department of Health. (n.d.). 2019 Ohio Drug Overdose Report. Retrieved 2022, from <https://odh.ohio.gov/know-our-programs/violence-injury-prevention-program/media/2019+ohio+drug+overdose+report>

unintentional drug overdose (45.6 per 100,000)⁴. That itself is an increase of 25% since 2019. The opioid crisis has impacted all of Ohio whether it be through economic damages, communities torn apart by crime and overdoses, and grieving families and friends dealing with the loss of loved ones.

Beginning in February of 2019, news of McKinsey's extensive work for Purdue Pharma began to enter the public consciousness. This led to litigation against McKinsey, and in February 2021, the company settled claims with 49 State Attorneys General, including Ohio's, for more than \$600 million. I commend Ohio Attorney General Dave Yost and his staff for securing more than \$24 million of this McKinsey settlement for Ohio, in order to assist in combating the opioid crisis in our state⁵. However, since this settlement, very troubling additional information has continued to come to light regarding McKinsey's role in the opioid crisis, and the systemic ways in which the company remains in a position to damage states like Ohio.

Specifically, it has been discovered that at the same time McKinsey was in lucrative contracts to provide consulting advice to opioid distributors and retailers, it was also benefitting from a lucrative contract to provide consulting advice – regarding opioid regulation – to the U.S. Food and Drug Administration (FDA). In fact, since the beginning of 2008, the FDA has hired McKinsey on multiple occasions, and paid the company over \$140 million⁶. McKinsey was not only actively involved with the Center for Drug Evaluation and Research, which is the FDA's division for approving certain classes of drugs including prescription opioids; but was also awarded a contract by the FDA to design a “track and trace” system, which would enhance the FDA's ability to identify and trace certain prescription drugs that are harmful to U.S. Consumers⁷. This “track and trace” system was obviously very harmful to McKinsey's other clients, so it advised the opioid manufactures and retailers on how to avoid FDA oversight. In 2008, McKinsey advised Purdue Pharma on how to soften the FDA's proposed Risk Evaluation and Mitigation Strategies (REMS), a drug safety program that requires manufacturers to communicate safety risks to patients, pharmacists, and other health care providers. Working at Purdue's direction, McKinsey built a strategy for opioid manufactures to combat the FDA's regulation through a “play...delay...preempt...and band together”⁸ plan that Purdue adopted. When REMS was finally

⁴ Ohio Department of Health. (n.d.). *Ohio Monthly Overdose Preliminary Data Summary, Sept. 2021*. Ohio monthly overdose preliminary data summary, Sept. 2021. Retrieved 2022, from <https://odh.ohio.gov/know-our-programs/violence-injury-prevention-program/media/ohio-unintentional-drug-overdose-deaths-preliminary-9-2021>

⁵ *News releases*. AG Yost Reaches \$24.7 Million Settlement with Consultant that Fueled Opioid Epidemic - Ohio Attorney General Dave Yost. (2021, April 2). Retrieved 2022, from <https://www.ohioattorneygeneral.gov/Media/News-Releases/February-2021/AG-Yost-Reaches-%2424-7-Million-Settlement-with-Cons>

⁶ *Advanced Search, Spending by Prime Award*, USASpending.gov, <https://www.usaspending.gov/search/?hash=9c4702cb5b379594a7c36481464f73f7> (last accessed July 21, 2021).

⁷ FDA contract HHSF223201010014B, date of order September 15, 2010; FDA contract HHSF223201010014B, date of order August 31, 2011.

⁸ *Id.*

announced in its final form in 2012, it was devoid of the restrictions the FDA has initially proposed. Overall, a recent report in the New York Times found that McKinsey in some instances watered down recommendations to its FDA clients after objections from consultants for its pharma clients. And McKinsey even boasted of its access to FDA officials through its federal contracts when pitching services to pharmaceutical clients.

Colleagues, this is a staggering conflict of interest, and it is Ohioans who are reaping the damage. Any member of this Ohio General Assembly who is also an attorney would be eligible for disbarment if they represented opposing clients, in the same transaction, without disclosing the competing representation to the other. It is taxpayer money that is being awarded, in the millions, to a white shoe consulting firm that is playing both sides. Taking money from drug makers to help them “turbocharge” the delivery of pills into Ohio is bad enough. But to simultaneously be taking the taxpayers money too, under the guise of helping the FDA regulate drug makers, while using that access to water down regulations instead, is downright shameful.

Ohio has worked for many years, in a bipartisan fashion, to heal from the opioid crisis. But to make sure we never go through this carnage again; we have to tackle all the culprits. We cannot stop at holding the drug distributors themselves accountable; there must also be consequences for the “consultants” who whispered in their ears behind closed doors. As we speak, McKinsey is continuing to benefit from other lucrative contracts with the Department of Defense, the VA, and potentially other federal agencies. We must ensure that the types of conflicts of interest which helped fuel the opioid epidemic can never happen again. House Concurrent Resolution 34 will send a strong statement from this body that we have not forgotten the lives that have been lost, and that we are committed to seeing a full investigation of McKinsey’s role at the federal level, in addition to what we have accomplished here in Ohio.

Thank-you again, Chairman Wilkin, for giving me this opportunity opportunity to provide sponsor testimony in favor of House Concurrent Resolution 34. I would now be happy to answer any questions the committee may have.