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37592

Resolution

Authorize the City Attorney to take legal action against McKinsey and Company, Inc., and any other third party that assisted opioid manufacturers in deceptively marketing prescription opioids, to recover public funds that have been and will be expended by the City as a result of the manufacture, marketing, and distribution of prescription opioids

Adopted

WHEREAS, certain manufacturers of prescription opioids, including Purdue Pharma L.P., aggressively pushed highly addictive, dangerous opioids, by advocating that doctors and patients use opioids for the treatment of chronic pain, while trivializing or misrepresenting the risks of serious addiction from opioid use; and

WHEREAS, increased marketing of opioids for chronic pain, dissemination of inaccurate and deceptive information regarding the addictive nature of opioids, and widespread diversion of prescription opioids have resulted in a nationwide epidemic of opioid addiction and overdose deaths; and

WHEREAS, Portland Fire & Rescue expends substantial resources responding to emergency medical calls for overdoses and administering Naloxone (a medication designed to rapidly reverse opioid overdose); and

WHEREAS, Portland Police Bureau spends millions of dollars annually responding to opioid-related drug calls and cases, as well as funding programs designed to reduce drug-related property crime; and

WHEREAS, the City funds housing and houselessness programs that provide services for individuals with opioid addiction; and

WHEREAS, the City directly expends funds to cover the costs of prescription opioids for members of City health insurance plans, as well as the costs of opioid addiction treatment for members of City health insurance plans; and

Introduced by

[Mayor Ted Wheeler](#)

Bureau

[City Attorney](#)

Contact

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Requested Agenda Type

Four Fifths

Date and Time Information

Requested Council Date

October 26, 2022

Time Requested

10 minutes

WHEREAS, the law provides a remedy for the City to recover costs attributable to the acts and omissions of those responsible for the opioid epidemic; and

WHEREAS, in 2018, this Council authorized the City Attorney take legal action against manufacturers and distributors of prescription opioids (Resolution No. 37344).

WHEREAS, after pursuing legal action against manufacturers and distributors, information became public regarding the relationship between McKinsey and Company, Inc. ("McKinsey") and Purdue, whereby McKinsey advised Purdue on business strategies and marketing to maximize the sales of OxyContin; and

WHEREAS, McKinsey also performed related work for other manufacturers of opioids; and

WHEREAS, in 2021, attorneys general representing 47 states announced a \$573 million settlement with McKinsey to resolve investigations into its role in helping opioid manufacturers promote drugs and profit from the opioid epidemic; and

WHEREAS, it is in the public interest for the City to recover the public funds expended because of misleading and deceptive advocacy for increased use of prescription opioids, in which McKinsey played a significant role;

NOW, THEREFORE, BE IT RESOLVED, that, the City Attorney or his designee is authorized to commence an action in any competent tribunal to protect the City's rights and recover damages and/or any other relief against McKinsey, and any other third party that assisted opioid manufacturers in deceptively marketing prescription opioids, for which there is a good faith basis to assert legal claims, and to pursue to conclusion in any higher tribunal and to make any stipulation, agreement, or admission as in his judgment may be in the best interest of the City. The City Attorney is further authorized to retain outside counsel to assist in the prosecution of such litigation if in his judgment doing so is in the best interest of the City.

Impact Statement

Purpose of Proposed Legislation and Background Information

The City has already pursued litigation against the manufacturers and distributors of opioids. This year, the City recovered the first funds from a significant, nation-wide settlement with certain distributors. This ordinance will authorize the City of Portland to join hundreds of other jurisdictions in suing McKinsey and Company, Inc. ("McKinsey") for the role it played working with manufacturers to develop strategies to deceptively market prescription opioids—strategies that ultimately contributed to the opioid epidemic that we are now in. Manufacturers, of the advice of and with the assistance of McKinsey, knowingly misled doctors and patients regarding the benefits of prescription opioids for treatment of chronic pain and

trivialized the significant risk of addiction. These actions resulted in an opioid epidemic, involving a dramatic increase in opioid addiction and overdose deaths. Along with the manufacturers and distributors of prescription opioids, McKinsey has experienced significant profits, while the City of Portland, like other jurisdictions, has borne the increased costs for emergency medical services, policing, housing, and medical expenses.

Holding McKinsey responsible for the significant costs that the City has incurred as a result of its actions is consistent with City policies.

Financial and Budgetary Impacts

There will be minor out-of-pocket expenses; the City will be represented by outside counsel on a contingency basis and in-house lawyers in the City Attorney's Office will provide additional services.

Community Impacts and Community Involvement

This Resolution involves direction from the Council to its lawyers in the City Attorney's Office, based on privileged attorney-client communications, so there was no public outreach or input.

100% Renewable Goal

Not applicable.

Agenda Items

898-1 Four-Fifths Agenda in [October 21-27, 2022 Council Agenda](#)

Adopted

Commissioner Mingus Mapps Yea

Commissioner Carmen Rubio Yea

Commissioner Dan Ryan Yea

Commissioner Jo Ann Hardesty Yea

Mayor Ted Wheeler Yea