



## Lawyers, Drugs, and Money – The Opioid Crisis Makes for Strange Bedfellows

Deborah L. Livornese

It seems that almost every day there is a new development in the government's response to the opioid crisis or opioid emergency. But it's not only the government and healthcare providers that are considering novel approaches. At least one drug manufacturer has been reported to be taking its marketing directly to those in a position not to prescribe its product, but to mandate its use.<sup>1</sup> And to paraphrase Warren Zevon, it brings together (former) lawyers, drugs and money.

### Background

Drugs approved by FDA for use in treating opioid dependence include formulations that include an opioid in the formulation and those that include an opioid antagonist.

There is a report that the manufacturer of Vivitrol®, a prescription injectable form of naltrexone (an opioid antagonist) indicated for the treatment of alcohol dependence and the prevention of relapse to opioid dependence following opioid detoxification, is marketing directly to drug court judges and other officials. Vivitrol is an opioid antagonist which distinguishes it from other FDA-approved treatments, such as buprenorphine, which contain opioids. Purportedly, some drug courts do not allow users to take such medications while in drug treatment, or at all, for this reason.<sup>2</sup>

In one case reported from Indiana, a judge in city court began allowing participants in drug court to start on medication while still in the program after meeting with a Vivitrol sales representative. This is not the only court in Indiana allowing Vivitrol to be used exclusively for medical treatment of addiction. The company has been open about this aspect of its marketing strategy.<sup>3</sup>

### AGG Observations

- We tend to think of drug promotion audiences as healthcare providers or patients/consumers, or both. Where does the judiciary fall? Can drug companies respond to unsolicited requests as if they are from a physician?
- This is not necessarily the first example of the intersection of drug sales or marketing and the courts (e.g., sentences of certain sex offenders in some courts may include drug treatment), but the market potential of the 3000 or so drug courts throughout the country and the number of individuals passing through those courts makes this a potentially much larger market.
- The anti-kickback rules and Sunshine acts have done away with the days of extravagant wining and dining of healthcare prescribers. Will these rules need to be rewritten to cover the judiciary and its staff, as well?

<sup>1</sup> *To Grow Market Share, A Drugmaker Pitches Its Product to Judges*, Jake Harper, Side Effects Public Media, August 3, 2017 available at <http://www.npr.org/sections/health-shots/2017/08/03/540029500/to-grow-market-share-a-drugmaker-pitches-its-product-to-judges>

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

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