



Office of New Mexico **Attorney General**



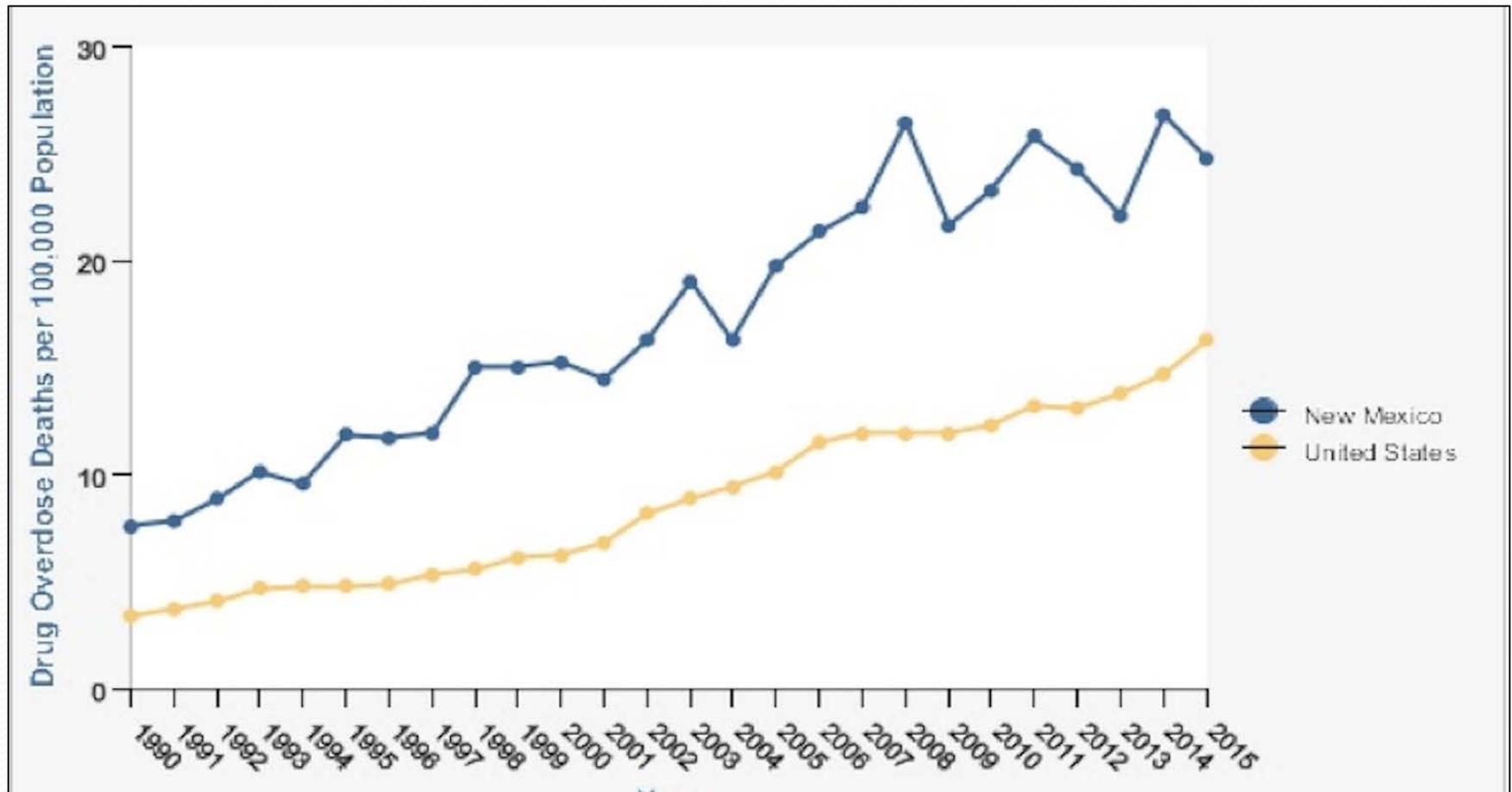
Fighting the Opioid Crisis in New Mexico

Opioid Crisis in New Mexico

- Since 2008, New Mexico has had one of the highest rates of drug overdose death in the United States.
- Between 2008-2012, almost every county in New Mexico had a higher drug overdose death rate than the rate for the entire United States.
- In some New Mexico counties, the overdose death rates were more than **five times** the national rate.

Opioid Crisis in New Mexico

Drug Overdose Death Rate - NM & US, 1999-2015



Opioid Crisis in New Mexico

- According to CDC, New Mexico had the third highest drug overdose death rate in the nation in 2013, the second highest in 2014, and remained in the highest age-adjusted rate category in the nation in 2015.¹

SOURCE: CDC/NCHS, National Vital Statistics System, Mortality, CDC, Number and age-adjusted rates of drug overdoses deaths by state, US 2013, 2014, 2015, available at

<https://www.cdc.gov/drugoverdose/data/statedeaths.html>¹ / Drug Overdose Death in New Mexico, 217 N.M. EPIDEMIOLOGY, No. 3 (March 10, 2017), available at <https://nmhealth.org/data/view/report/1994/>²

Opioid Crisis in New Mexico

The New Mexico Department of Health estimates that **in 2007 alone** prescription opioid abuse, and misuse cost New Mexico \$890 million, taking into account costs such as excess medical and prescription costs, lost earnings from premature deaths, and the costs of correctional facility and police services.

New Mexico Department of Health, *New Mexico Substance Abuse Epidemiology Profile Report* (2015).

State of NM v. Purdue Pharma, et al.

On September 7, 2017, the NMAGO filed a complaint against companies who either manufacture opiate-based analgesic pain medications (“opioids”) or who distribute those opioids from the manufacturers to pharmacies. The NMAGO filed this complaint to recover money spent by the state of New Mexico on the following:

- Reimbursements paid from state insurance programs for opioid prescriptions that were not medically necessary;
- Costs of providing publically-funded medical care to patients who, because of those medically unnecessary prescriptions, became addicted to opioids;
- Costs of providing publically-funded medical care to infants born to addicted parents who, due to their parents’ addiction, suffer from their own opioid-related medical issues;
- Costs of providing publically-funded welfare for children whose parents are addicts or whose parents have died due to overdoses; and
- Costs incurred by law enforcement and public safety agencies as a result of overdoses and drug-related crimes like possession, burglary, prostitution, and gang violence.

Claims filed by the Attorney General

Violations of:

- New Mexico Medicaid Fraud Act
- New Mexico Unfair Practices Act
- New Mexico Racketeering Act
- New Mexico Fraud Against Taxpayers Act

Claims for:

- statutory and common law public nuisance
- negligence
- negligence *per se*

Benefits of Cooperation

- State has authority/standing to bring *all* claims
- State has institutional advantages, including
 - resources
 - ability to demand attention of defendants
 - capability of negotiating for all
- Sharing of expenses
- Reduction of staff time spent on litigation
- Strategy: united front against common adversary

Economies of Scale

Cooperation will avoid duplication of effort and save time and State money, including:

- Avoiding duplicate review of millions of documents
- Avoiding sending multiple attorneys to depositions and hearing on behalf of shared New Mexico interests
- Avoiding having duplicate experts review the same documents and render reports and testimony on the same topics

Partnering to Abate the Crisis: Damages Model

Statewide Abatement Plan must include:

- Treatment / Health Care Costs
- Prevention / Education
- Law Enforcement

Path Forward:

- United front under umbrella of State's case:
 - Damages model to include all Counties
 - “Insurance policy”: Tolling Agreement preserving ability to file suit should the State's remedy prove to be inadequate

or
- Retain same group of outside counsel as State
 - consistent strategy
 - savings of time and expenses

or
- *Carefully* vet other firms

Suggestions for Attorney Vetting

- Use an RFP process; do not hire whoever cold calls you
- Hire counsel with experience handling complex pharmaceutical litigation, preferably on behalf of public entities
- Hire counsel with sufficient staff and resources to review tens of millions of documents, hire and pay for an expert team, and handle multiple depositions per week for periods of months
- Go on-line to research any counsel you are considering hiring
- Beware of counsel who ask for money upfront