



# THE OPIOID EPIDEMIC: A PAINFUL THREAT TO EUROPE?

September 2017

Pop legends Michael Jackson and Prince both died using the drug fentanyl, the most powerful opioid (50 times more potent than heroin) usually used in advanced stage cancer patients.

The steep increase in the use of prescription and non-prescription opioids in the United States and Canada in the 2010s has become known as the “opioid epidemic”. There are now fears that Europe may face a similar epidemic, together with a trend for related legal claims/potential group actions against the manufacturers, the prescribers and the sellers. This report examines the likelihood of these rising concerns.

## WHAT ARE OPIOIDS?

Opioids are strong painkiller drugs that block or reduce feelings of pain. They are often prescribed for those who have suffered from a severe physical trauma such as a serious sports injury or motor accident. Opioids taken in high doses effect the part of the brain which regulates breathing and may cause respiratory depression and death. The most commonly prescribed opioids include:

- Fentanyl
- Oxycodone
- Hydrocodone
- Methadone
- Morphine

## US STATISTICS

Given that 80% of the opioid supply globally is consumed in the United States the opioid epidemic to date has been mostly in the US. According to an analysis by Fair Health:

- In 2014, there were 18,893 deaths involving opioids in the US.
- The number of private health insurance claims in the US related to opioid dependence diagnosis rose by 317% from 2007 to 2014.
- It has been reported that drug overdoses (two thirds of which are opioids) have now become the leading cause of death among Americans under the age of 50 with currently 1.9 million (0.7% of the population) people dependent on opioid pain relievers.
- According to recent studies, pain relief was the main reason for non-medical use in about 40% of the cases.
- About 50% of non-medical opioid users reported non-pain relief motives only, for example to feel relaxed or to get high.
- In 2016, nearly half of all opioid overdose deaths in the US involved prescriptions.
- In 2016, 62,000 Americans died from overdoses.

The figures from 2017 show that the situation is only getting worse, with the number of drug overdose deaths rising faster than ever.

## POSITION IN EUROPE

The Pain in Europe survey back in 2004, revealed the prevalence and impact of chronic pain in Europe with nearly one in five adults in Europe suffering from chronic pain. Of those, 35% experienced pain every day of their lives and 16% said that on some days the pain made them want to die. However, typically the EU model is that patients are not provided opioids until it is the last line of treatment available.

Although the EU falls significantly behind the US, its rates of prescription drug abuse are still higher than

might be expected. The 2017 British Medical Journal report states that the “legitimate per capita consumption of opioid analgesics in the USA is 3.5 times higher than the average per capita consumption of the EU Member States, Norway and Turkey”. Further, another study suggests some countries in Europe are showing concerning levels of abuse of dangerous, addictive prescription painkillers, raising fears that Europe will follow the United States. Scott Novak, a lead researcher and a senior research scientist at RTI International stated this could be “the start of a tidal wave”. This suggests that opioid abuse seems to be increasing in Europe and could become a major problem.

In Europe, prescription opioids accounted for three-quarter of overdose deaths among those between ages 15 and 39. High rates of non-medical use were also found among the young throughout Europe, including Spain and the United Kingdom. The main concern is that once pharmaceuticals start targeting other countries and are able to reassure potential users that opioids are safe, we may see a sharp rise in opioids abuse outside the US.

*See Graph 1 detailing the number of drug-induced deaths reported in Europe in 2014 and 2015, by age band.*

In 2014, a study was carried out on 22,077 participants aged 12 to 49 from Denmark, Germany, Spain, Sweden and the UK that were using painkillers, sedatives, and stimulants. Both the UK and Spain saw a high level of opioid use for non-medical conditions. At least 60 drugs deaths in the UK so far this year have also been linked to the opioid fentanyl. In contrast the German’s usage was much lower, reflecting a different cultural attitude across European healthcare systems.

The European Drugs Agency recently released a report “*The European Drug Report 2017: Trends and Developments in Brussels*” that highlights the effects of an increase in overdose-related deaths, the availability of new illicit drugs, and threat of synthetic opioids to health. In it, Dimitris Avramopoulos, European commissioner for Migration, Home Affairs and Citizenship stated:

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“ The impact of the drugs problem continues to be a significant challenge for European societies. Over 93 million Europeans have tried an illicit drug in their

lives and overdose deaths continue to rise for the third year in a row. I am especially concerned that young people are exposed to many new and dangerous drugs. Already 25 highly potent synthetic opioids were detected in Europe between 2009 and 2016, of which only small volumes are needed to produce many thousands of doses, thus posing a growing health threat. ”

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According to the report, for the third consecutive year, the number of overdoses in Europe increased and in 2015, there were 8441 overdose-related deaths in Europe, which is an increase of 6% from 2014. However, this in our view, is still relatively just a small number of deaths compared to the figures being seen in the US.

See Graph 2 detailing an overview of drug-induced deaths.

## US CLAIMS ENVIRONMENT

In the US, there are law firms that specialise in handling opioid painkiller litigation and are actively chasing for such claims. Opioid class actions have already been filed on behalf of users of a number of prescription opioids including oxycodone (OxyContin) and propoxyphene (Darvon, Darvocet). These lawsuits were filed seeking compensation and medical monitoring costs for patients who were injured after using these drugs. Suits involving prescription opiates have been filed against:

- The drug manufacturers
- The doctors who prescribe the drugs
- The pharmacy chains (e.g. Walmart)

Despite warnings from the Food and Drug Administration about the dangers and health risks associated with using opioids, many pharmaceuticals have continued to market opioids for off-label uses and doctors continue to inappropriately prescribe opioids to their patients (without adequately weighing up the risks) thereby increasing their risk of addiction, overdose, or other complications.

Doctors are increasingly being held accountable, some even facing murder charges when their patients overdose on opioid painkillers they prescribed. A Texan doctor was charged with five counts of second-degree murder of seven people for prescribing “horrible excessive amounts” of potent drugs. The number of doctors penalised by the US

Drug Enforcement Administration has also grown five times in recent years. The US DEA took action against 88 doctors in 2011 and 479 in 2016 according to an analysis of the National Practitioner Data Bank by Tony Yang at George Mason University. Many other doctors have been sued in civil suits.

## CLASS ACTION IN CANADA

Between 2000 and 2015, more than 6,300 people died in Ontario alone from overdoses related to opioids and in 2014, the provinces’ public drug programs spent C\$93 million on medications to treat patients suffering from dependence on opioids. In May 2017, Purdue Pharma (“Purdue”) agreed to settle the Canadian OxyContin class-action suit brought by 2000 Canadians for C\$20 million.

Previously, in May 2007, Purdue and three of its executives paid US\$634.5 million to settle criminal and civil charges against them in the US for misbranding OxyContin as less addictive than other pain medications. Soon after in 2007, the Canadian class action began for those patients who were introduced to the drug through a doctor’s prescription. The class action claimed that:

- Purdue knew that anyone who took OxyContin would be at risk of becoming addicted to it and suffer withdrawal symptoms if they stopped, but at no time were these risks disclosed.
- It was Purdue’s marketing that persuaded doctors to expand their use of opioids beyond treating cancer pain by promoting the concept that OxyContin provided a lesser frequency of abuse and dependency to patients than other painkillers.

## COMPARISON: US AND EUROPE

In the US there is a trend called “doctor shopping” where patients see one doctor for treatment to get a prescription and then go to another practice to get another prescription. This allows patients to double their dosage undetected and shows the very lax system in the US for protecting potential opioid abusers. Another study last year found that 91% of overdose survivors in the US were still able to get another prescription for opioids and that users are eight times more likely to abuse prescription painkillers if they had received a prescription for one before.

In Europe, the positive news is that such a trend is less likely due to the fact that patients are registered with one family doctor (GP). They do not generally have the opportunity to shop around for



doctors willing to prescribe opioids. In Europe, as doctors are more aware of the dangers of opioid abuse they are more likely to prescribe high dosages of non-opioid painkillers in the first instance. Opioids are seen as the last resort. The strength of the European system is that the one doctor or hospital looking after one patient will maintain detailed medical records enabling any history of medical abuse to be readily identified.

Below, we have created a comparator table between the US and Europe in respect of opioid usage, that we hope you will find useful:

US	Europe
Trend for "doctor shopping" with easy access to patients for doubling their prescribed dosage.	Stricter control on availability of opioids with registered GPs and national healthcare systems.
Internet pharmacy - on-line sales for unregulated medication (4.1% of all opioids purchased in US are via internet).	Currently less of an issue in Europe but with the potential to increase.
Opioids more readily available and prescribed from doctors and pharmacies. A lot more lax than in Europe.	Last resort medication - under the general European treatment model a doctor will not reach for an opiate until last chance for patient. Tighter control on prescription by doctors and tighter regulatory controls.
High number of users given prescribed drugs by family or friends.	Less people obtain prescribed drugs from family or friends.
Some states have systems to monitor medical history but easier for patients to fall through the systems' cracks.	Generally medical record systems make a patient's addiction harder to go unnoticed.
Less stigma attached to using prescribed opioids.	More of a stigma attached to the use of opioids.
General willingness to prescribe opioids for serious pain.	Natural reluctance to prescribe opioids - seen as last resort.

Non-medical use of opioids and fatal opioid incidents are more frequent.	Though on the increase, lesser rates of non-medical use of opioids and fatal opioid incidents are still quite rare.
Criminal and civil lawsuits (including class actions) against manufacturers, doctors and pharmacies ongoing.	None to date. Potential for criminal charges for supply of opioids on black market. Potential negligence claims against doctors if opioids are prescribed prematurely. Group actions only likely if, for example, there is proof that the manufacturer has deliberately concealed the addictive nature of opioid.

### COMMENT

In light of this evidence, it would appear that although the overdose rates of opioids appear to be increasing in Europe, there is still overall more reluctance for the medical use of opioids in Europe than in the US. It is also evident that Europe can control prescription opioid abuse more easily than the US can. Also, given that addiction is eight times more likely in prescription users and the control of prescribing opioids in Europe is much tighter, the positive news is that there should logically be less opioid addicted patients in Europe than in the US. Though on the increase, the non-medical use of opioids is currently much less than in the US and fatal opioid incidents in Europe remain very infrequent.

Across the board (in US and Europe), non-opioid options are also becoming more popular in the treatment of pain amongst previous abusers, including over the counter medications like aspirin. Therefore while the risks of an opioid epidemic in Europe and any related legal claims taking off the ground seem to be rather limited at this stage, caution going forward is still required.

### FURTHER INFORMATION

To find out more about our services and expertise, and key contacts, go to: [kennedyslaw.com](http://kennedyslaw.com)

## KEY CONTACTS



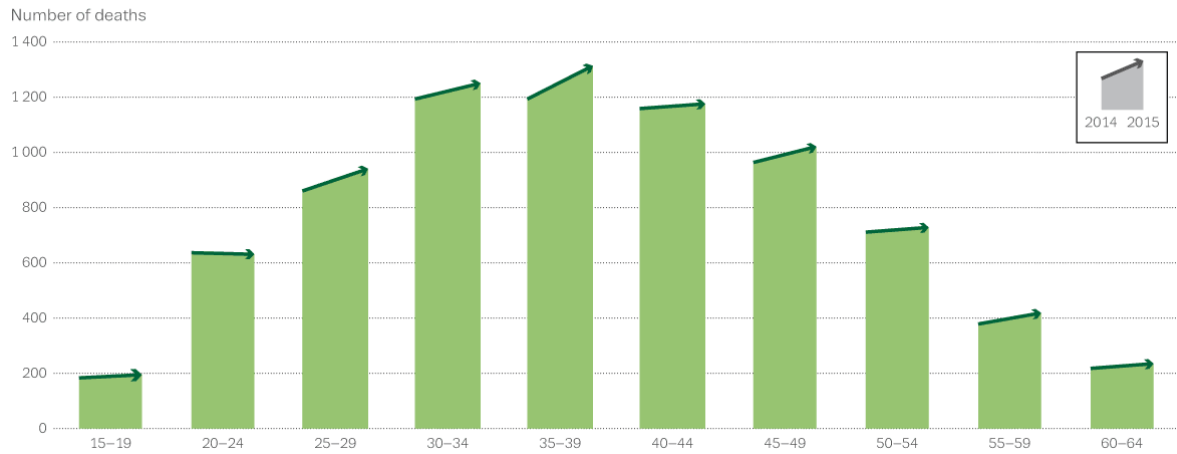
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Graph 1

Number of drug-induced deaths reported in Europe in 2014 and 2015, by age band

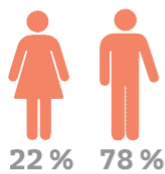


Source: European Monitoring Centre for Drugs and Drug Addiction (2017), European Drug Report 2017: Trends and Developments

Graph 2

### Drug-induced deaths

#### Characteristics



Mean age at death  
**38**

Deaths with opioids present  
**79 %**

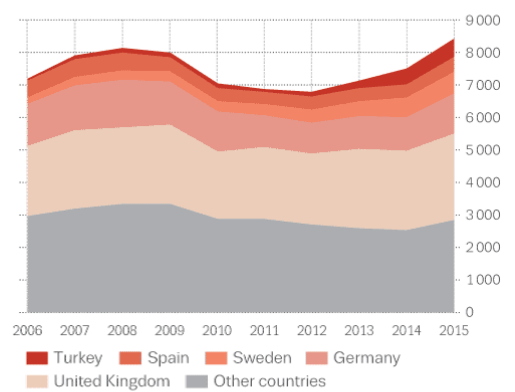
#### Age at death



#### Number of deaths

**7 585** EU      **8 441** EU + 2

#### Trends in overdose deaths



Source: European Monitoring Centre for Drugs and Drug Addiction (2017), European Drug Report 2017: Trends and Developments

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