

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051
MINORITY (202) 225-5074
<https://oversight.house.gov>

MEMORANDUM

December 14, 2020

To: Members of the Committee on Oversight and Reform

Fr: Majority Staff

Re: Hearing on “The Role of Purdue Pharma and the Sackler Family in the Opioid Epidemic”

On Thursday, December 17, 2020, at 9:00 a.m., the Committee will hold a remote hearing over WebEx to examine the role of Purdue Pharma L.P. and members of the Sackler family in fueling America’s opioid epidemic. Since 1999, nearly 450,000 Americans have lost their lives to opioid overdoses.¹

I. PURDUE PHARMA AND THE SACKLER FAMILY

Brothers Raymond, Arthur, and Mortimer Sackler purchased Purdue Pharma in 1952.² In 1996, the company launched the highly addictive painkiller OxyContin.³ For years, members of the Sackler family were closely involved with Purdue’s marketing efforts for OxyContin and helped oversee the company’s day-to-day operations.⁴ The Sackler family has profited tremendously from Purdue’s success, withdrawing more than \$10 billion from the company since launching OxyContin.⁵

¹ Centers for Disease Control and Prevention, *Understanding the Epidemic* (Mar. 19, 2020) (online at www.cdc.gov/drugoverdose/epidemic/index.html).

² The Arthur Sackler family subsequently sold its share of the company.

³ *‘A Blizzard of Prescriptions’: Documents Reveal New Details about Purdue’s Marketing of OxyContin*, StatNews (Jan. 15, 2019) (online at www.statnews.com/2019/01/15/Massachusetts-purdue-lawsuit-new-details/).

⁴ Three years after launching OxyContin, Dr. Richard Sackler, Raymond’s son, became president of Purdue. Other members of the Sackler family—including Dr. Kathe Sackler, Mortimer D.A. Sackler, and David Sackler—have held senior positions within the company and have sat on the company’s Board of Directors. *Meet the Sacklers: The Family Feuding over Blame for the Opioid Crisis*, Guardian (Feb. 13, 2018) (online at www.theguardian.com/us-news/2018/feb/13/meet-the-sacklers-the-family-feuding-over-blame-for-the-opioid-crisis).

⁵ *The Sackler Family Withdrew More Than \$10 Billion from Purdue Pharma During the Country’s Opioid Crisis*, CNN (Oct. 21, 2020) (online at www.cnn.com/2019/12/17/us/purdue-pharma-sackler-family-10-billion-withdrawals/index.html).

OxyContin’s sales skyrocketed as a result of aggressive marketing, targeting higher-prescribing doctors, and downplaying the drug’s addictive potential. In 2007, following a four-year investigation into Purdue’s marketing practices, the Department of Justice (DOJ) settled with Purdue Pharma’s parent company, the Purdue Frederick Company, and three of Purdue’s top executives on charges of “misbranding”—reportedly over the objection of federal prosecutors who recommended bringing felony charges, including conspiracy to defraud, against the executives.⁶ Purdue paid \$600 million in fines, and the settlement did not include any admission of liability by the Sackler family.

Following the 2007 DOJ settlement, state attorneys general began filing lawsuits against Purdue in state court. By June 2019, 48 states had sued Purdue for fueling OxyContin abuse by persistently downplaying the addictive potential of the drug and pushing doctors to prescribe higher doses.⁷ Several states, led by Massachusetts, also sued individual members of the Sackler family.⁸

In September 2019, Purdue announced an agreement in principle for a settlement with 24 state attorneys general and plaintiffs in the multidistrict civil litigation.⁹ The proposed settlement, worth an estimated \$10 billion to \$12 billion, included a plan proposed by the Sackler family to convert the company’s OxyContin business into a “public benefit trust”—with the proceeds going to state and local government efforts to address the opioid epidemic.¹⁰ A majority of state attorneys general rejected the deal, citing concerns about the public benefit company provision and the absence of any admission of wrongdoing from members of the Sackler family.¹¹

⁶ Department of Justice, *Statement of United States Attorney General John Brownlee on the Guilty Plea of the Purdue Frederick Company and Its Executives for Illegally Misbranding OxyContin* (May 10, 2007) (online at www.documentcloud.org/documents/3534759-uS-Atty-on-Purdue-Settle.html).

⁷ *Nearly Every State Is Now Suing OxyContin Maker Purdue Pharma*, CNBC (June 4, 2019) (online at www.cnn.com/2019/06/04/nearly-every-us-state-is-now-suing-oxycontin-maker-purdue-pharma.html).

⁸ *Commonwealth of Massachusetts v. Purdue Pharma L.P. et al.*, Suffolk County Superior Court (C.A. No. 1884-cv-01808 (BLS2)), First Amended Complaint and Jury Demand (Jan. 31, 2019) (online at www.mass.gov/files/documents/2019/07/11/43_01%20First%20Amended%20Complaint%20filed%2001-31-2019_0.pdf).

⁹ Purdue Pharma L.P., *Press Release: Purdue Pharma Announces Agreement in Principle on Landmark Opioid Litigation Settlement* (Sept. 16, 2019) (online at www.purduepharma.com/news/2019/09/16/purdue-pharma-announces-agreement-in-principle-on-landmark-opioid-litigation-settlement/).

¹⁰ In addition, the proposed settlement required that the Sackler family would pay \$3 billion in fines, funded by the sale of another Sackler-owned pharmaceutical company, and would have no further involvement with Purdue. *Purdue Pharma Offers \$10-12 Billion to Settle Opioid Claims*, NBC News (Aug. 27, 2019) (online at www.nbcnews.com/news/us-news/purdue-pharma-offers-10-12-billion-settle-opioid-claims-n1046526); Purdue Pharma L.P., *Press Release: Purdue Pharma Announces Agreement in Principle on Landmark Opioid Litigation Settlement* (Sept. 16, 2019) (online at www.purduepharma.com/news/2019/09/16/purdue-pharma-announces-agreement-in-principle-on-landmark-opioid-litigation-settlement/).

¹¹ *Purdue Pharma Settlement Offer Opposed by 25 States*, Stamford Advocate (Sept. 13, 2019) (online at www.stamfordadvocate.com/business/article/Purdue-Pharma-settlement-offer-opposed-by-25-14438315.php) (noting that 25 state attorneys general opposed the proposed terms).

Following the failed settlement discussions and facing thousands of pending lawsuits, Purdue filed for Chapter 11 bankruptcy in September 2019. According to documents obtained by DOJ, beginning in 2007, members of the Sackler family had begun strategically removing assets from Purdue in order to make them harder for future plaintiffs and creditors to reach.¹²

II. PURDUE'S MARKETING PRACTICES FOR OXYCONTIN

Documents obtained through federal and state investigations reveal tactics used by Purdue to drive up sales and medically unnecessary prescriptions of OxyContin and other opioids, as well as the Sackler family's involvement in these efforts.

Documents obtained by DOJ show that from 2013 to 2018, Purdue—with the express approval of members of the Sackler family—engaged in a marketing initiative called “Evolve to Excellence” (E2E), developed in conjunction with the consulting firm McKinsey & Company, to intensify marketing to the highest-volume opioid prescribers and target them with increased frequency.¹³ Purdue representatives, whose compensation was tied to sales volume, encouraged high-volume prescribers to prescribe more of Purdue's opioids in higher doses.¹⁴ The Sacklers specifically approved the E2E program in order to “turbocharge sales” and improve profits.¹⁵ According to McKinsey email correspondence following a meeting with members of the Sackler family in 2013, the Sacklers “gave a ringing endorsement of ‘moving forward fast.’”¹⁶

Documents obtained by DOJ also show that Purdue executives and members of the Sackler family ignored safeguards from the company's Abuse and Diversion Detection program—intended to identify and cut off health care providers suspected of suspicious prescribing behavior.¹⁷ Although members of the Sackler family were routinely informed of red flags raised by the program, many high-volume prescribers went unreported. Even in cases when they were reported, Purdue continued to deploy sales representatives to visit them.¹⁸ Members of the Sackler family also proposed alternative strategies for filling prescriptions for patients that traditional pharmacies had rejected.¹⁹

¹² Department of Justice, *Sackler Settlement Agreement* (Oct. 21, 2020) (online at www.justice.gov/opa/press-release/file/1329736/download) (Addendum A, paragraphs 158-170).

¹³ *Id.* (Addendum A, paragraphs 79-109).

¹⁴ *Id.* (Addendum A, paragraphs 110 and 113).

¹⁵ *Id.* (Addendum A, paragraphs 90 and 96).

¹⁶ *Id.* (Addendum A, paragraphs 96 and 98).

¹⁷ *Id.* (Addendum A, paragraph 139); *Id.* (Addendum A, paragraphs 119 and 157).

¹⁸ *Id.* (Addendum A, paragraph 126).

¹⁹ *Id.* (Addendum A, paragraphs 150 and 157); *Commonwealth of Massachusetts v. Purdue Pharma L.P. et al.*, Suffolk County Superior Court (C.A. No. 1884-cv-01808 (BLS2)), First Amended Complaint and Jury Demand (Jan. 31, 2019) (online at www.mass.gov/files/documents/2019/07/11/43_01%20First%20Amended%20Complaint%20filed%2001-31-2019_0.pdf).

Documents obtained by the Massachusetts Attorney General also reveal how Purdue executives downplayed the risks of addiction and death posed by prescription opioids. At the encouragement of members of the Sackler family, Purdue executives promoted false narratives that steered patients away from safer alternatives, deflected blame for addiction to patients and away from the company's products, and targeted populations that are particularly vulnerable to addiction—including the elderly and people who had never taken opioids before.²⁰

III. 2020 DOJ SETTLEMENT WITH PURDUE AND NAMED SACKLERS

In July 2020, DOJ publicly announced civil and criminal investigations of Purdue and four named members of the Sackler family: Dr. Richard Sackler, Mr. Mortimer D.A. Sackler, Dr. Kathe Sackler, and Mr. David Sackler. On October 21, 2020, DOJ announced proposed settlements to resolve criminal and civil charges against Purdue and civil charges against the named Sacklers.²¹ The proposed settlement with Purdue adopted the Sackler family proposal to convert Purdue's OxyContin business to a public benefit company. Purdue also agreed to pay a criminal fine of \$3.5 billion, as well as a criminal forfeiture sum of \$2 billion.²² The Sackler family agreed to pay \$225 million in damages—approximately 2% of the family's estimated net worth.²³ The DOJ settlement did not include criminal charges against any of the Sacklers, and the Sacklers again did not admit any wrongdoing.

In a letter to Attorney General Barr on October 14, 2020, 25 state attorneys general expressed strong opposition to the proposed settlement, raising concerns that converting the OxyContin business into a public trust would inappropriately entangle government officials in the sale of opioids and hamstringing the government's ability to appropriately regulate the

²⁰ *Commonwealth of Massachusetts v. Purdue Pharma L.P. et al.*, Suffolk County Superior Court (C.A. No. 1884-cv-01808 (BLS2)), First Amended Complaint and Jury Demand (Jan. 31, 2019) (paragraphs 27, 28, 48, and 98) (online at www.mass.gov/files/documents/2019/07/11/43_01%20First%20Amended%20Complaint%20filed%2001-31-2019_0.pdf).

²¹ The settlement with Purdue would resolve three felony charges against the company: one count of conspiracy to defraud the United States and violate the Food, Drug, and Cosmetic Act, and two counts of conspiracy to violate the Federal Anti-Kickback Statute. Department of Justice, *Press Release: Justice Department Announces Global Resolution of Criminal and Civil Investigations with Opioid Manufacturer Purdue Pharma and Civil Settlement with Members of the Sackler Family* (Oct. 21, 2020) (online at www.justice.gov/opa/pr/justice-department-announces-global-resolution-criminal-and-civil-investigations-opioid).

²² The criminal forfeiture sum would be comprised of a cash payment of \$225 million and the conversion of the OxyContin business into a public trust company, worth over \$1.75 billion. Purdue also would pay \$2.8 billion to resolve its civil liability under the False Claims Act. Department of Justice, *Press Release: Justice Department Announces Global Resolution of Criminal and Civil Investigations with Opioid Manufacturer Purdue Pharma and Civil Settlement with Members of the Sackler Family* (Oct. 21, 2020) (online at www.justice.gov/opa/pr/justice-department-announces-global-resolution-criminal-and-civil-investigations-opioid).

²³ *Even Without Purdue Pharma, Sackler Family Is Worth Billions*, Bloomberg (March 5, 2019) (online at www.bloomberg.com/news/articles/2019-03-05/even-without-purdue-pharma-sackler-family-is-worth-13-billion).

industry.²⁴ The bankruptcy court ultimately approved DOJ's settlement on November 17, 2020, and Purdue pleaded guilty to the felony charges on November 24, 2020.²⁵

IV. COMMITTEE INVESTIGATIONS INTO PURDUE PHARMA AND THE SACKLER FAMILY

In March 2019, under the leadership of Chairman Elijah E. Cummings and Representative Mark DeSaulnier, the Committee launched an investigation into the role of the Sackler family in Purdue's marketing of OxyContin.²⁶ On October 27, 2020, Chairwoman Maloney and Representative DeSaulnier released selected documents from the investigation.²⁷ These documents show:

- **Members of the Sackler family used the OxyContin business to “stretch” Purdue’s financial targets and increase earnings.**
 - In March 2008, Dr. Richard Sackler—who is the son of one of Purdue’s original owners and has held top positions at the company including President, Chief Executive Officer (CEO), and Chairman of the Board of Directors—sent an email to then-CEO John Stewart criticizing the company’s 2008 performance projections. Dr. Sackler wrote: “I really don’t like the forecast at this point. I think it is a typical low ball number that people expect to beat and be complimented for. I want the organization to stretch, not idle as so much of it has for a long time.”
 - In August 2009, Dr. Sackler emailed other members of the Board of Directors concerning declining sales projections for OxyContin. He noted that “the value to us of reversing the current declines of 5-8% and converting them to a 5% growth is worth \$1/4 B (\$243M) in going from -6.5% to +5.0%; before the decline began, we were growing closer to 10%/yr in the oxycodone ER market. Of no small matter is the profit associated with the incremental sales which at 80% would be ~200M!”

²⁴ Letter from State Attorneys General to Attorney General William P. Barr, Department of Justice (Oct. 14, 2020) (online at www.mass.gov/doc/october-14-2020-letter-to-attorney-general-barr/download).

²⁵ *Judge Approves OxyContin-Maker Purdue Pharma’s Settlement over ‘Multiple Serious Felonies,’* ABC News (Nov. 17, 2020) (online at <https://abcnews.go.com/US/purdue-pharma-seeks-settlement-approval/story?id=742500060>); Department of Justice, *Plea Agreement with Purdue Pharma L.P.* (Oct. 20, 2020) (online at www.justice.gov/opa/press-release/file/1329576/download).

²⁶ Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, and Rep. Mark DeSaulnier to Craig Landau, President and Chief Executive Officer, Purdue Pharma L.P. (Mar. 21, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-03-21.EEC%20DeSaulnier%20to%20Landau-Purdue.pdf>).

²⁷ Committee on Oversight and Reform, *Press Release: Maloney and DeSaulnier Release Documents Following DOJ Settlement with Purdue and Sackler Family* (Oct. 27, 2020) (online at <https://oversight.house.gov/news/press-releases/maloney-and-desaulnier-release-documents-following-doj-settlement-with-purdue>).

- In October 2009, Dr. Sackler responded to a document assessing the company's performance that was circulated to members of the Sackler family and Purdue executives, remarking: "Purdue is beginning to look like a cash cow focused on life cycle extension for oxycodone ER." In 2009, the Sackler family took \$1.7 billion out of Purdue.²⁸
- In October 2013, Mortimer D.A. Sackler—the son of another original co-owner of Purdue and a former Vice President and Co-Chairman of the Board—wrote to members of the Board to express frustration with Purdue's proposed 2014 budget. He wrote, "In my opinion we would be better off laying everyone off and milking the business than doing this!" He also wrote, "Seems like the organization has just fully given up and is resigned to declining volume sales for all our products which bodes really badly for our business and our pipeline (and I would again question the value of investing so heavily in an R&D pipeline whose future is very questionable given the dramatic changes that have happened in the market)."
- **Members of the Sackler family pressured Purdue executives to grow market share for OxyContin and other opioids, including by targeting high-volume prescribers and pushing higher strength doses.**
 - In order to assess OxyContin's 2008 demand, Dr. Sackler proposed: "Let's measure our performance by Rx's by strength, giving higher measures to higher strengths an[d] especially the new strengths." A Purdue executive later commented, "With the [sales] rep bonus plan we have been very careful to not over incentivize reps to promote the higher strengths over the lower strengths. Alls [sic] strengths are important to the overall success of the brand."
 - In later years, Purdue adopted a marketing strategy to address the decline in higher dose prescriptions. A document titled "Purdue US Sales and Budget Update" from June 2013 warned, "Titration up to higher strengths, especially to the 40mg and 80mg strengths is declining," but noted, "High dose prescribing grew in physicians we began calling over the last year."
 - In March 2009, Dr. Sackler requested data on Purdue's share of the market for extended release opioids. After receiving a graph showing Purdue's market share declining, Dr. Sackler responded, "This is not good." He later followed up: "I'm troubled by our continued losing of position to other opioids, especially morphine and methadone. These should be easy ones to compete against and difficult for people to argue for." He later added, "Don't you agree that we can arrest this decline and reverse it?"

²⁸ *Purdue Pharma Payments to Sackler Family Soared Amid Opioid Crisis*, New York Times (Oct. 21, 2020) (online at www.nytimes.com/2019/12/16/health/sacklers-purdue-payments-opioids-.html).

- In a January 8, 2010, email exchange with then-CEO John Stewart regarding Purdue’s 2010 budget, Dr. Sackler expressed frustration with the company’s OxyContin sales projections. He wrote: “I just don’t see why with all the opportunities many, but not all of which we are trying to exploit, we can’t lift our Rx’s and our kg 8%. 2009 was affected by the economy (all agreed) but 2010 is likely to be a much stronger year in terms of the economy, so we have this additional lift even before we get the effects of the programs and add additional programs.”
- In March 2011, after reviewing a report on prescription and stocking data for Purdue’s newly launched opioid, Butrans, Dr. Sackler wrote to Purdue’s Vice President of Sales and Marketing: “What else more we can do to energize the sales and grow at a faster rate?”
- In June 2011, Dr. Sackler reacted to an activity report for sales representatives in the field. He wrote, “Above suggests that we are calling on non-high potential prescribers. How can our managers have allowed this to happen?” Minutes later, Dr. Sackler asked Purdue’s Vice President of Sales and Marketing about a previous request for him to accompany sales representatives in the field, asking: “Who have you chosen for me to go to the field with the week after the budget meeting?”
- In August 2013, Dr. Sackler arranged for a “face to face meeting” between members of the Board and the consulting company McKinsey to discuss a McKinsey plan to “Turbocharge the Sales Engine” for OxyContin, including through “Prescriber Targeting.” In a memorandum provided to Board Members, McKinsey concluded: “Collectively these findings show significant opportunity to improve targeting and also emphasize the upside from improvement as OxyContin’s responsiveness to calls appears significant.”

V. WITNESSES

On November 24, 2020, Chairwoman Maloney invited Craig Landau, the CEO of Purdue, and four members of the Sackler family—Dr. Richard Sackler, Mr. Mortimer D.A. Sackler, Dr. Kathe Sackler, Mr. David Sackler—to testify at a hearing on December 8, 2020, about their roles in fueling America’s opioid epidemic.²⁹

²⁹ Letters from Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform, to Dr. Richard Sackler, Mortimer D.A. Sackler, Dr. Kathe Sackler, and David Sackler (Nov. 24, 2020) (online at <https://oversight.house.gov/news/press-releases/oversight-committee-calls-purdue-pharma-ceo-and-sackler-family-to-hearing-on>); Letter from Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform, to Craig Landau, President and Chief Executive Officer, Purdue Pharma L.P. (Nov. 24, 2020) (online at <https://oversight.house.gov/news/press-releases/oversight-committee-calls-purdue-pharma-ceo-and-sackler-family-to-hearing-on>).

Attorneys for the Sacklers sent a letter on December 1, 2020, notifying the Committee that their clients had declined, citing the pendency of ongoing bankruptcy proceedings.³⁰

Although the existence of separate proceedings outside the Legislative Branch does not affect the Committee's authority to hold hearings, in an effort to accommodate the Sacklers' concerns, Committee staff explored with the Sacklers and their attorneys the possibility of rescheduling the hearing to January. On December 3, 2020, after consulting with Ranking Member James Comer's office, Committee staff provided multiple possible dates in January and asked whether the Sacklers would participate voluntarily. In response, the Sacklers provided no indication that they would participate voluntarily at any hearing on any date.

On December 8, 2020, Chairwoman Maloney sent a letter informing the Sackler family members that the Committee would be moving forward with the hearing in December and warning that subpoenas would be issued if they failed to appear.³¹

Since then, Committee staff have been in numerous consultations with attorneys for the Sackler family. As a result of those consultations, the Committee agreed to accept the voluntary testimony of two members of the Sackler family without the need for subpoenas—Dr. Kathe Sackler and David Sackler—who held corporate positions dating back to 1990 and 2012, respectively. The Committee also agreed to their request to postpone the hearing by two days to Thursday, December 17, 2020, in order to accommodate their scheduling concerns. The Committee reserved the right to request additional testimony at a later date if necessary.

David Sackler

Former Member of the Board of Directors (2012 to 2018)
Purdue Pharma L.P.

Dr. Kathe Sackler

Former Vice President and Member of the Board of Directors (1990 to 2018)
Purdue Pharma L.P.

Craig Landau

President and CEO
Purdue Pharma L.P.

Staff contacts: Miles Lichtman and Leesa Klepper at (202) 225-5051.

³⁰ Letter from Roberto Finzi, Counsel to Dr. Richard Sackler and Mr. David Sackler, to Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform (Dec. 1, 2020); Letter from Maura Monaghan, Counsel to Dr. Kathe Sackler and Mr. Mortimer D.A. Sackler, to Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform (Dec. 1, 2020).

³¹ Letter from Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform, to Maura Monaghan, Counsel to Dr. Kathe Sackler and Mr. Mortimer D.A. Sackler (Dec. 8, 2020); Letter from to Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform, to Roberto Finzi, Counsel to Dr. Richard Sackler and Mr. David Sackler (Dec. 8, 2020).