



The Opioid Crisis and Counties: Updates from NCACC

NC Health Directors' Legal Conference
April 4, 2018



Background

- The CDC estimates the cost of unintentional opioid-related overdose deaths in NC was **\$1.3 billion** in 2015
- From 1999-2016, opioid-related overdose deaths increased by **more than 800%**
- Estimated that nearly **four people** die each day in NC from accidental drug overdose

Data from the NC Opioid Action Plan

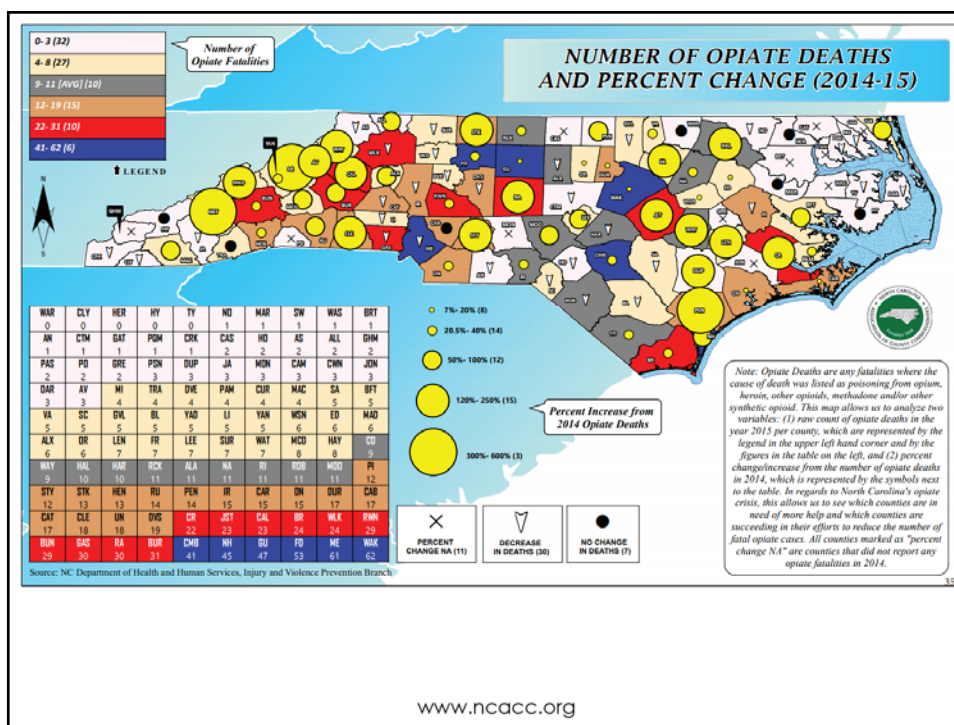
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Background

- Counties are on the front lines and deal with many impacts of opioid use, treatment, and overdose
- The NC Attorney General joined 40 other states to investigate opioid manufacturers and distributors
- Over the past year, several states and local governments have filed lawsuits against manufacturers and distributors

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NCACC Timeline

- Firms Started contacting the Association in late summer 2017
- Summary provided to NCACC Board of Directors in early October
- Webinar held with County Attorneys in mid-October
- Forum for County Attorneys held Nov. 15; goal was to provide information and forum for discussion
- Presentations from two law firm groups and the Office of the Attorney General
- NCACC met with NC Attorney General
- Continuing webinars and updates provided from law firms and Attorney General's office
- NCACC is not endorsing specific group

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Bladen	Resolution declaring Opioid Crisis a public nuisance adopted, 12.18.17
Brunswick	Resolution declaring Opioid Crisis a public nuisance and authorizing county to retain legal counsel adopted, 12.4.17
Buncombe	Lawsuit filed, 11.14.17
Burke	Lawsuit filed, 2.1.18
Cabarrus	Retained counsel, 2.22.18
Caldwell	Lawsuit filed, 3.6.18
Carteret	Public Nuisance Resolution adopted, 11.20.17
Catawba	Public Nuisance Resolution adopted, 12.20.17; Lawsuit filed, 1.11.18
Chatham	Public Nuisance Resolution adopted, 11.20.17
Cleveland	Retained counsel, 2.6.18
Forsyth	Engaged counsel, 2.15.18
Gaston	Public Nuisance resolution adopted and retained counsel, 1.12.18
Guilford	Retained counsel, 2.16.18
Madison	Retained counsel, 3.15.18
Mecklenburg	Retained counsel, 1.10.18
New Hanover	Lawsuit filed, 12.14.17
Onslow	Lawsuit filed, 12.4.17
Orange	Retained counsel, 1.30.18
Person	Adopted resolution and retained counsel, 1.22.18
Pitt	Adopted resolution and retained counsel, 1.18.18
Randolph	Retained counsel, 1.2.2018
Richmond	Adopted resolution, 2.6.18
Rockingham	Lawsuit filed, 12.12.17
Rutherford	Lawsuit filed, 12.15.17
Stokes	Resolution; retained counsel, 1.22.18
Surry	Lawsuit filed, 12.15.17
Watauga	Retained counsel, 3.20.18
Wilkes	Retained counsel, 1.19.18
Yadkin	Lawsuit filed, 12.17.17

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County Attorneys' Forum

- County attorneys heard two law firm presentations describe their approaches
- Office of Attorney General also presented
- Working group of county attorneys discussed specific questions raised

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Potential Legal Actions

- Public Nuisance claims
- Unjust Enrichment
- Negligence
- Claims under the Consumer Protection Act and Controlled Substances Act
- False Advertising

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How to Calculate Damages

<p>Public Health Cost of overdose medications (e.g., Naloxone) Drug screening tests Cost of treating uninsured patients for opiate-related dependence Treatment costs for babies born with positive toxicology Substance abuse treatment costs</p> <p>Social Services Number of foster care placements attributable to opiate-related causes Increased number of staff/hours to cover opiate-related cases</p> <p>Law Enforcement Cost of additional sheriff department hours attributable to opiate-related response Cost of detox treatment in detention center Increase in jail costs attributable to opiate-related causes</p>	<p>Emergency Response Increase in volume for emergency calls and responses Coroner/medical examiner costs</p> <p>Courts Increase in caseload volume attributable to opiate-related cases</p> <p>Education Increase in Number of School Resource Officers</p> <p>Capital Cost of building and maintaining treatment facilities</p>
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- Others?

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Potential Questions to Consider

<p>What is the likelihood of success?</p> <p>How much work will the county contribute to the process?</p> <p>What are the costs to the county if litigation is unsuccessful?</p> <p>What are the possible causes of action?</p>	<p>Are there statutes of limitations concerns? Issues of causation?</p> <p>Are there ways to label and track opioid costs?</p> <p>At what level of specificity does your county track this type of data?</p> <p>If not specific figures, is there a legitimate way to estimate/extrapolate costs?</p>
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- Others?

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Survey of State Associations

- Early 2018, National Council of County Association Executives conducted survey of state associations, status of litigation
- 15 responses
- Key Observations:
 - States in various stages of process and understanding of complex legal issue
 - Major national firms engaged, local firms are active with commissioners
 - Various approaches to engaging with States Attorneys Generals
 - No clear template for damages estimation
 - A need for unified communications to assist in best outcome for counties / NACo January call / NCCAE Taskforce created

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Update on Nationwide Litigation

- Over 400 Counties and Cities filed suit as of early 2018
- Vast majority of cases in federal court
- Federal court cases – consolidated in MDL
- Some cases filed in state courts

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MDL

What is Multidistrict Litigation –

- Federal court procedure for handling numerous complex cases sharing questions of law or fact
- Placed in one location for pre-trial matters
- Judicial Panel on Multidistrict litigation decides whether cases should be consolidated and, if so, where transferred

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Opioid Litigation MDL

On December 5, 2017 – Judicial Panel of Multidistrict Litigation transferred all federal court cases to one court –

Northern District of Ohio – Cleveland Ohio

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North Carolina and MDL

- County cases filed in NC are part of MDL
- Should AG bring cases those would likely be in state court
- NCACC continues to monitor and provide information

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NCACC County Opioid Abuse Resources

<http://www.ncacc.org/646/County-Opioid-Abuse-Resources>


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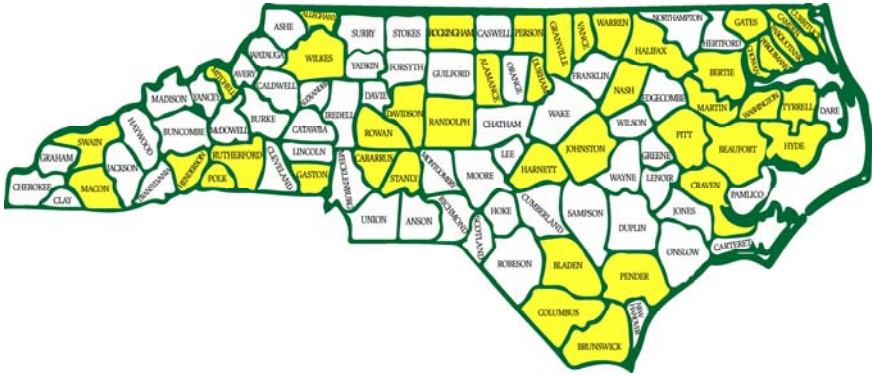
Goals

- To elevate the awareness of all local elected officials so they have a common understanding of the opioid epidemic in their county;
- To discuss its causes, its effects on citizens, and its implications for the county's future;
- To educate local elected leaders about successful prevention and treatment programs and provider resources available in their county;
- To generate coordinated education, prevention and treatment strategies to reduce the occurrence of opioid addiction, overdose, and death.

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County Leadership Forums




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Target Participants

- County Commissioners
- Municipal Members from municipalities in county
- School Board members and superintendents
- County Sheriff
- Chief District Court Judge
 - May also include physicians, pharmacists, hospital CEO, Community College, First Responders, Police Chiefs, DA

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Opioid Meeting Materials

Sample Agenda

<p>Welcome & Introductions</p> <p>Opening Remarks: Our Shared Interests in Solutions</p> <p>Understanding Opioid Overuse and Addiction</p> <p>Impact on Families in our County</p> <p>Education, Prevention, and Treatment Tools Available in our County</p> <ul style="list-style-type: none"> • Drug Drop-off Boxes • Syringe Exchanges • Naloxone • Drug treatment and recovery programs • Stepping Up Initiative <p>What Tools Should We Add to our Toolbox? How Do We Get Started?</p> <p>Build Next Steps</p> <p>Wrap-Up</p> <p>Concluding Remarks</p>	<p>Chair, County Board of Commissioners</p> <p>County Local Public Health Director IME/MCO Chief Executive Officer</p> <p>County Local Public Health Director IME/MCO Medical Director</p> <p>County DSS Director</p> <p>Local Public Health Director IME/MCO Representative</p> <p>Facilitated Group Discussions</p> <p>Group Reports</p> <p>Local Public Health Director IME/MCO Representative</p> <p>Chair, Board of County Commissioners</p>
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Follow-up

- Follow-up reports and Action Plans – see NCACC website
- Leadership Forums continue
- Continued collaboration with local, state and national partners

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Questions?

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