

Here's what critics of the Purdue Pharma settlement get wrong

Opinion by **Steve Miller**

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Steve Miller is chairman of the board of directors for Purdue Pharma.

If the purpose of litigation against opioid manufacturers is to help address the opioid crisis, then the Justice Department's resolution of its investigation of Purdue should be hailed as a landmark settlement in the public interest. As victim advocates and public health experts have noted, the settlement can have a significant and positive impact.

Some state officials say the Justice Department failed to give Americans the justice they deserve. Our strongly held view, which is shared by many more public officials and a critical mass of plaintiffs representing more than half of the U.S. population, is that justice, in this case, means getting maximum resources as quickly as possible to communities affected by the devastation of the opioid crisis.

The Justice Department had a choice. It could have taken every penny from Purdue and placed the money into the federal treasury where it would have been used to pay down the deficit or for other general purposes. The Justice Department rightly would have been blasted for ignoring the lessons from the tobacco settlement, the funds from which were too often diverted to non-health-related projects, such as filling potholes. Instead, the Justice Department is directing the overwhelming majority of these dollars to state, local and tribal governments specifically for abatement purposes.

Critics also charge that the settlement "failed to expose the full record of what happened at the company." But they ignore that the agreement with Justice Department mandates that a public repository be established containing Purdue's documents related to its past practices.

Perhaps the most perplexing criticisms are those concerning the requirement that Purdue's assets be transferred to a public benefit company or similar entity. A public benefit company is a for-profit company at which directors can also consider positive societal impact — such as reducing opioid overdose deaths. Here, the new company would have a commercial business that includes many non-opioid assets, and would use the profits to provide free, or at low cost, millions of doses of lifesaving opioid addiction treatment and overdose reversal medicines.

Government would most certainly not be "getting into the opioid business." State and local governments would neither own nor operate the public benefit company; and the new company would not be afforded any special governmental protection or shielded from regulatory oversight. It would,

however, give state and local governments access to billions of dollars of abatement funds and other resources that communities desperately need. And it would impose upon itself unprecedented controls restricting the promotion of opioid products to health-care professionals.

The proposal to establish a public benefit company has nothing to do with burnishing the Sackler family legacy, as some critics allege. The Sacklers will have no role in the design or governance of the new company. They are turning over 100 percent of Purdue's assets, will be required to sell their international pharmaceutical businesses and will now pay \$225 million on top of the \$3 billion they have already guaranteed.

Purdue carefully considered alternatives to the public benefit model, including a sale to a private buyer. However, this option — which would be nothing more than a fire sale in bankruptcy — would materially diminish value that otherwise could be dedicated to abatement. It would also put at risk the new entity's ability to supply critically important medicines and develop and provide free lifesaving opioid addiction treatment and overdose reversal medicines. No private buyer would share those goals.

We recognize that having government effectively seize a company and place it into a trust is an extraordinary remedy. But when I served a decade ago as the chairman of troubled insurance giant AIG, I saw firsthand how such an arrangement can sometimes be the best solution to an otherwise intractable problem.

This is a complex and emotionally charged situation, and there are different views on the best way forward. But I believe we all share the goal of providing maximum value to affected communities. Purdue's settlement with the Justice Department has the potential to pave the way for a global settlement in bankruptcy court that would transfer more than \$10 billion in value to a trust established for the benefit of the American people.

If we truly want to help the victims of the opioid crisis and prevent more families from suffering, it's time to put the resources of Purdue to work. Further delay wastes money and time that we just don't have.

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