

AUTHORIZING THE OFFICE OF CORPORATION COUNSEL TO SELECT AND ENGAGE OUTSIDE COUNSEL TO INITIATE LEGAL ACTION AGAINST COMPANIES THAT HAVE UNLAWFULLY ENGAGED IN PRACTICES CONTRIBUTING TO THE ONGOING OPIOID EPIDEMIC

WHEREAS, Dane County is in the midst of an opioid epidemic that is claiming many lives each year and destroying families and communities; and

WHEREAS, according to the Dane County Medical Examiner's Office, in 2016, the number of deaths related to opioids represented a 130 percent increase from the number in 2010 – and the office estimates another 50 percent increase in the number of deaths in 2017; and

WHEREAS, Dane County is not alone in this crisis, as the opioid epidemic spans across the country, infiltrating communities and affecting individuals of all ages, race, ethnicity, education, and socioeconomic status; and

WHEREAS, the societal costs associated with the opioid epidemic are staggering and, according to the Centers for Disease Control and Prevention (CDC), amount to over \$75 billion annually; and

WHEREAS, the U.S. Department of Health and Human Services reports that in 2015, 12.5 million people misused prescription opioids, 33,091 people died from overdosing on opioids, and 2 million people had a prescription opioid use disorder; and

WHEREAS, according to the CDC, since 1999, the amount of prescription opioids sold in the U.S. nearly quadrupled even though there was no overall change in the amount of pain reported by Americans and the number of overdose deaths (including prescription opioids and heroin) also quadrupled; and

WHEREAS, according to the CDC, in 2015, the number of opioids prescribed in the U.S. was enough to medicate every American around the clock for three weeks; and

WHEREAS, according to the American Society of Interventional Pain Physicians, Americans make up 4.6 percent of the world population, but consume 80 percent of the world's opioids and 99 percent of the global hydrocodone supply; and

WHEREAS, while opioid sales generated an estimated \$15.3 billion in 2016, opioid abuse costs the U.S. economy a loss of \$78.5 billion each year, according to a study published in The American Journal of Public Health; and

WHEREAS, the National Institute for Health has identified the manufacturers of certain of the opioid medications as being directly responsible for the rapid rise of the opioid epidemic by virtue of their aggressive and, according to some, unlawful and unethical marketing practices; and

WHEREAS, according to the Associated Press and The Center for Public Integrity in a report from September 2016, opioid manufacturers and allied non-profits spent nearly \$1 billion on lobbying and

46 political contributions at the state and federal level to kill or weaken legislation unfavorable to prescription
47 opioids since 2006; and

48
49 WHEREAS, in response to this epidemic state and local governments around the country have filed
50 lawsuits against wholesale distributors, claiming a violation of the federal Controlled Substances Act by
51 failing to alert the U.S. Drug Enforcement Administration of suspicious opioid purchases, or against
52 manufacturers stating an exaggeration of the benefits of the medication and a failure to warn doctors
53 about the extreme addictive nature of the opioids, or against opioid manufacturers that lobbied politicians
54 to maintain a favorable political climate for the continued and expanded use of opioids and/or intentionally
55 falsely represented to doctors and other stakeholders the addictive properties of opioids; and

56
57 WHEREAS, certain opioid manufacturers have faced civil and criminal liability for their actions that
58 related directly to the rise of the opioid epidemic; and

59
60 WHEREAS, state and local governments have previously filed lawsuits against industries engaging in
61 illegal business practices, such as the Big Tobacco lawsuits of the 1990's, to protect citizens; and

62
63 WHEREAS, the County is aware that other counties and local governments have filed lawsuits
64 against certain opioid manufacturers to force the persons and entities responsible for the opioid epidemic
65 to assume financial responsibility for the costs borne by governments and citizens to address and combat
66 the opioid epidemic; and

67
68 WHEREAS, Dane County has spent significant funding in unexpected and unbudgeted time and
69 resources in its programs and services related to the opioid epidemic; and

70
71 WHEREAS, the County is responsible for a multitude of programs and services, all of which require
72 the County to expend significant resources during a period of time when the County's revenues are limited
73 and/or decreasing due to strict tax levy limits and declining state and federal aid to the County; and

74
75 WHEREAS, because of the resources that the County is forced to direct to addressing the opioid
76 epidemic, which requires ever-increasing amounts of resources, the County's ability to provide other
77 essential programs and services becomes more and more difficult; and

78
79 WHEREAS, all resources the County directs towards addressing and combatting the opioid epidemic
80 are resources that cannot be used for other essential programs and services that the County provides to its
81 citizens, taxpayers, residents, and visitors; and

82
83 WHEREAS, the damages and costs suffered by Dane County as a result of the opioid epidemic are of
84 a magnitude and scale greater than and in excess of the damages and costs suffered by other local
85 governments in Wisconsin and/or the government of the State of Wisconsin; and

86
87 WHEREAS, it is prudent for Dane County to explore every option available to combat the opioid
88 epidemic in Dane County, including litigation against pharmaceutical companies, wholesale distributors,
89 and/or manufacturers whose actions may have contributed to or exacerbated the ongoing opioid epidemic
90 within Dane County;

91
92
93
94
95
96
97
98

NOW THEREFORE BE IT RESOLVED, that the Dane County Board of Supervisors hereby authorizes the Office of Corporation Counsel, at its discretion, to select outside counsel and to enter into a contingency fee arrangement with outside counsel, whereby outside counsel will not be compensated unless the County receives a financial benefit as a result of the proposed claims, to commence a lawsuit exclusively on behalf of the County, against any pharmaceutical company, wholesale distributor, manufacturer, and/or other entity that engages in practices that contribute to the ongoing opioid epidemic within Dane County.