

OPINION

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Rite-Aid Bankruptcy Highlights the Dark Side of Opioid Lawsuits

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[Rite-Aid announced that it is filing for Chapter 11 bankruptcy protection](#). They are attributing this decision to lower retail sales in a highly competitive market, but also to the payouts they face in response to the opioid addiction epidemic. Numerous pharmacies, including [Walgreens](#), [CVS](#) and [Walmart](#), have reached settlements that will cost them billions of dollars spread over the next several years. To further exacerbate Rite-Aid's situation, in March, the [Department of Justice](#) made a [whistleblower lawsuit filing against the company concerning illegal prescriptions being filled](#).

In spite of the [media coverage and press reports surrounding opioid addiction](#), pharmacies that filled prescriptions got caught in a no-win situation. The role of pharmacies is to fill prescriptions written by licensed health care professionals. They are not positioned to challenge and adjudicate the intentions of such medical providers and prescriptions written.

If pharmacies take such a stance, they can be accused of overstepping their boundaries. For example, the American Medical Association (AMA) [criticized Walmart if it denied filling legitimate prescriptions](#) written by licensed prescribers.

This does not mean that some prescriptions were inappropriately filled by some pharmacies. However, to have widespread systemic wrongdoing by pharmacies filling millions of prescriptions, albeit possible, is exceedingly unlikely, given their limited role in the overall health care continuum.

The [manufacturers of the opioids](#), in some cases, have been held liable, and rightly so. By [drug-makers misrepresenting the addictive nature of their products and deliberately withholding information](#), many prescribers were misled into liberally writing prescriptions, without the full knowledge of their actions and consequences to patients.

The possibility of large payouts sold opioid addiction lawsuits to cities and states, providing an attractive opportunity to potentially get "free" money, with no obvious cost.

Yet, there are no free lunches. [Such funds must be used to address the consequences of the epidemic](#), not as general fund revenue.

If Rite-Aid is unable to recover from its financial downturn exacerbated by opioid payouts, its future is in jeopardy. Given that they are the [sixth largest pharmacy](#) in the nation, with a presence in 17 states, albeit much smaller than entities like Walgreens and CVS, some

communities would lose a pharmacy option, effectively reducing competition. They have already announced the [closing of over 100 stores across 12 states](#) as part of its bankruptcy.

One possible scenario for the future is that one of the larger pharmacies may buy Rite-Aid. This would eventually lead to fewer pharmacies across the nation, as the purchaser will likely close certain locations that duplicate their presence in areas.

Another option is that some yet-to-be-disclosed store chain may step in to expand its footprint into the brick-and-mortar pharmacy market.

Of course, any purchaser of Rite-Aid must also take responsibility for its opioid liability, placing headwinds on any potential suitor unless such risks can be mitigated.

Although some of the communities that lose Rite-Aid locations will get financial windfalls from their opioid payouts, the big winners may be the lawyers who argued and won these legal battles in the courts.

From the point of view of litigation potential, once the opioid manufacturers were taken down, the next largest group to go after were the large pharmacies. However, blaming pharmacies for filling prescriptions is akin to shooting the messenger. It will do nothing to stem the underlying societal problem, while hurting companies that provide value in serving communities.

Some would argue that the health care providers who wrote the prescriptions should also be held liable. The problem is that suing each such person would be far too costly to undertake. The same can be said about small, stand-alone pharmacies which, without corporate oversights, may be more guilty of inappropriately filling opioid prescriptions. The problem, once again, is that pursuing legal actions against such individual entities would not be cost-effective.

When companies like Rite-Aid are forced to seek bankruptcy protection for doing what their business model demands, this begs the question: What could they have done differently? The answer is very little, based on the information available at that time.

It is tragic how the opioid epidemic has destroyed lives and hurt communities. It is also sad that numerous pharmacies, have been negatively affected by the opioid epidemic lawsuits.

Lessons learned need to be heeded to avoid such outcomes with other addictions. Regrettably, the likelihood of this occurring is small.

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