

Assigning Blame in the Opioid Crisis

by Theodore Dalrymple



One of the most glorious principles of our civil law is that one should always sue the person with the most money rather than the person who bears most responsibility, morally-speaking, for the alleged harm done. After all, there is little point in suing someone who can't pay: that would be to waste the court's time, which itself would be morally wrong.

I couldn't help but think of this lovely principle when I heard that [Johnson and Johnson had been fined](#) more than \$500 million in Oklahoma for having promoted the abuse of opioid analgesics, to the great detriment of patients themselves and above all to the state which had, as it were, to pick up the pieces.

I hold no particular brief for the pharmaceutical industry and its ways. It is an industry run by humans, and humans are imperfect and given to temptation. They often do what is in

their immediate interest rather than what is right. As Doctor Chasuble said in *The Importance of Being Earnest*, we are none of us perfect. I myself am peculiarly susceptible to draughts.

But was Johnson and Johnson either uniquely or principally responsible for the epidemic of opioid abuse and death by overdose in Oklahoma, or elsewhere? The court found that it had used misleading advertisements to doctors and had also misled them by a series of supposedly educational conferences, etc.; I am prepared to believe that this is true. In the days when I received visits from representatives of drug companies, I would often be presented with data that seemed to me not quite mendacious, but certainly that put an unwarranted gloss on the facts, of the kind that financial advisers are apt to employ. I remember one particular representative who changed companies in mid-career and began to argue just as passionately, if not convincingly, in favour of his new company's competitor product as for his old company's product. A disinterested search for truth is not to be expected of company literature or promotion, and surely no reasonably intelligent person above the age of sixteen would expect it to do so, or swallow it whole.

Doctors are responsible for what they prescribe and no doubt are subject to various kinds of influences and pressures, not least from their patients themselves. Their status as professionals requires them to be critical and independent-minded: and if they let themselves be misled, they are at least co-responsible with those who have misled them.

The situation is this: in 1980, two eminent doctors by the name of Porter and Jick published a letter in the *New England Journal of Medicine* that pointed out, quite correctly, that patients who were treated in hospital with strong opiates for severe acute pain (such as during a heart attack) seldom if ever became addicted to them. It was necessary to point this out because at the time doctors were reluctant to give pain relief to such patients because of fear of addicting them.

Unnecessary suffering was being endured by patients because of this fear.

Unfortunately, in the 1990s, when synthetic or semisynthetic strong opioids first became available, Porter and Jick's letter was used as evidence that any and all patients suffering from pain could be treated with opioids with impunity from the addiction point of view: it didn't matter what kind of pain they were suffering from.

Now it seems to me that any reasonably experienced, thoughtful and self-critical doctor should have recognised at once that there was a world of difference between a man having a heart attack and an overweight unemployed steel-worker (say) with chronic back pain and a propensity to drink too much. Even without the knowledge that latter kind of pain correlates much better with a person's socio-psychological state than with any discernible pathology, I should not have believed anyone who told me that the two cases were so similar that they could and should be treated similarly from the point of view of their pain. And yet that is precisely what many doctors proceeded to do.

I used to see it happen, to a limited extent, in my own hospital, which had a pain clinic. Some of the doctors in it were either gullible or simply wanted to get rid of the patients as quickly as possible, without argument, by giving them whatever they wanted, often in dangerous combinations (that of opioid and benzodiazepine being particularly dangerous). I would see patients bounding up some stairs, becoming more and more doubled up with pain as they approached the clinic. They would leave the clinic clutching their prescriptions, their mobility restored in proportion to their distance from the clinic.

I do not mean by this, of course, that no patients suffer genuinely from chronic pain. Many do. But it has been shown fairly conclusively that in most such cases opioid medications

are of very little use, and are accompanied by many hazards. If you add to this credible reports that some doctors virtually sell prescriptions to their patients, as some universities virtually sell degrees to their students, it will be seen that drug companies are not alone in their responsibility for the current situation: they simply have the most money. Moreover, it is within the experience of many doctors that some patients threaten them if they, the doctors, do not give them what they want.

No one is going to sue the thousands of doctors who, for whatever reason, prescribed drugs inappropriately and thus let the genie out of the bottle. Nor will anyone sue the regulatory bodies who claim the *locus standi* to control, supervise, and advise what can be prescribed to whom, and which were singularly slow to react to a crisis whose development could and should have been noticed quite a large number of years ago.

I do not, as I said, hold a brief for any drug company. But the action against such a company, and it alone (apart from against a grossly corrupt doctor or two), suggests scapegoating more than it suggests justice. It does not seem like scapegoating only because the company is an impersonal entity, and no individual suffers by it, at least for the moment, except infinitesimally. But the contributory negligence of many different parties—including, dare I say it, patients—was, in aggregate, very considerable.

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