

NEJM Perspective: How state attorneys general can protect public health

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Gun violence, obesity, and the misuse of opioids and alcohol are responsible for roughly 374,000 deaths—15 percent of all deaths—each year in the United States. To protect the public from harmful products, legal action can be used against industries, one example of which—a settlement with the tobacco industry—offers useful lessons for confronting several of today's public health epidemics.

In an article published Sept. 13 in the *New England Journal of Medicine*, Cheryl Heaton, dean of the NYU College of Global Public Health, discusses the 1998 Master Settlement Agreement between the tobacco industry and 46 state attorneys general, five territories, and Washington, D.C. As the largest legal settlement ever executed in the United States, the Master Settlement Agreement reduced smoking rates, saved lives, and was deemed a victory for public health.

"Given its success, the agreement has enormous promise as a model for similar litigation or settlements that could hold industries accountable when they knowingly deceive and injure consumers with their products," Heaton writes.

Prior to becoming the dean of the NYU College of Global Public Health, Heaton was the founding president and CEO of the American Legacy Foundation, the tobacco control organization created by the Master Settlement Agreement. She guided the national youth tobacco prevention counter-marketing campaign, truth, which has been credited with reducing youth smoking prevalence to record lows. Heaton's NEJM Perspective encourages similar mass education campaigns to address other major public health problems.

As states' chief legal officers, attorneys general are most often elected by voters, but in some states and territories are appointed by the governor, state legislature, or state Supreme Court. 2018 is a

critical year for attorneys general: 30 [states](#) are holding elections and several others will appoint new attorneys general.

Attorneys general are responsible for protecting the public and can intervene—individually or collectively—through litigation when public health is threatened. Heaton writes that several of the country's most serious public health problems are and should be targets for state attorneys general, including the opioid epidemic, gun violence, excessive consumption of fast food and sugar-sweetened beverages, alcohol use, and fossil fuel effects on climate and air quality. For instance, 41 attorneys general are currently suing or poised to sue opioid manufacturers or distributors, claiming that the companies violated laws by making false claims about opioids' addictiveness and safety, failing to monitor or report excessive deliveries, and allowing fraudulent prescriptions to be filled.

"The trajectory of these major [public health](#) problems could be altered by reducing industry manipulation of science and lobbying for policies against the public interest; compensating public coffers for money spent combating these epidemics and redirecting funds to prevention; and using public education, product warnings, and price increases to reduce use of harmful products," writes Heaton.

An increasingly vexing epidemic—that of gun violence, including suicide—is difficult to address through action by state attorneys general as a result of the 2005 Protection of Lawful Commerce in Arms Act, which shields the gun industry from litigation and, along with other state legislation, give attorneys general few avenues to pursue legal action.

"In light of this onerous, near-blanket indemnification, not afforded any other industry, education is especially critical to ensure the public is aware of and can combat this special protection

which provides the gun [industry](#) a 'pass' on protecting consumers and the public at large from the untoward impacts of its products," said Healton.

Healton concludes that by using legal action to hold industries accountable, state attorneys general can and should "strengthen their roles as guardians of the [health](#) of the public."

More information: *New England Journal of Medicine* (2018).
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