LOCAL LAW 7-18
CHAUTAUQUA COUNTY

A LOCAL LAW DECLARING THE OPIOID EPIDEMIC AND ITS EFFECTS ON
CHAUTAUQUA COUNTY A PUBLIC NUISANCE AND FURTHER ESTABLISHING A
COST RECOVERY PROCEDURE FOR THE COUNTY'S EXPENDITURES INCURRED
IN PROVIDING SERVICES RELATED TO THE OPIOID EPIDEMIC

BE IT ENACTED, by the County Legislature of the County of Chautauqua, New York,
as follows:

Section 1. Purpose and Intent.

The opioid epidemic is sweeping the country. Indeed, addiction to and abuse of opioids
is one of the greatest challenges facing Chautauqua County, New York (the "County"). A cause
of this increasing crisis is the overabundance of prescription opioids. Vast amounts of
prescription opioids were sold, distributed, and prescribed in the County over the past several
years, a practice that continues today. The selling, distributing, and prescribing of large amounts
of opioids in our community has created a public health and safety hazard affecting the residents
of the County. This crisis has devastated families, wreaked havoc on our economy, and
produced a generation of narcotic dependence. As a result of the opioid epidemic, costs related
to healthcare, family and social services, criminal justice, addiction and rehabilitation, and many
other areas have significantly increased. Many of these costs are paid by the County.

The purpose and intent of this legislation is to allow the County to recover these costs,
despite the existence of the common-law municipal cost recovery rule (a.k.a. free public services
doctrine) and declare the opioid epidemic and its effects on the County a public nuisance.
Specifically, the County provides services related to the opioid epidemic, which are funded by
tax revenues. This statute clarifies that reimbursement may be sought for the costs of providing
such services, whenever practicable, from the responsible party. To accomplish this, the County
establishes this cost recovery procedure and declares the opioid epidemic and its effects on the
County a public nuisance.

Section 2. Definitions.

"Costs" means all expenditures related to the opioid epidemic that directly or indirectly
arise from the County's response to a responsible party's action or inaction.

"Responsible party" means any person or corporation whose negligent, intentional, or
otherwise wrongful conduct causes the incident resulting in the County incurring costs or who is
found liable or made responsible by a court for the costs incurred by the County in the form of
damages, regardless of the cause of action.

Section 3. Governmental Function Cost Recovery.

The County may recover the costs of governmental functions related to opioids marketed,
sold, manufactured, dispensed, prescribed, and/or distributed by the responsible party. If a
responsible party fails to pay the costs demanded, the County may initiate and recover costs

through administrative, civil, and/or criminal action against the responsible party. In that case, the County may also recover attorney's fees, interest, and any other payment or type of damages the court deems proper.

Section 4. <u>Effect of Criminal or Civil Proceedings on Governmental Function Cost Recovery</u>.

The initiation of administrative or civil proceedings for governmental function cost recovery does not bar the criminal prosecution of a responsible party for any associated violation. Similarly, criminal prosecution does not bar civil collection of costs for the violation giving rise to the criminal prosecution.

Section 5. <u>Public Nuisance</u>.

The County hereby finds and declares the following:

(1)   That addiction to and abuse of opioids is one of the greatest challenges facing the County;

(2)   A cause of this increasing crisis is the overabundance of prescription opioids. Vast amounts of prescription opioid pain pills were sold, distributed and prescribed in the County over the past several years, which practice continues today;

(3)   There is evidence showing that approximately four in five heroin users began their addiction by first using and then misusing prescription pain medications containing opioids;

(4)   The selling, distributing, and prescribing of large amounts of opioid pain pills in the County has created a public health and safety hazard affecting the residents of the County, resulting in devastation to County families, a negative effect on the County economy, wasted public resources, and a generation of narcotic dependence;

(5)   That selling, distributing, and prescribing of prescription opioid pain pills is a hazard to public health and safety, which has created a public nuisance to the citizens of the County, and said nuisance remains unabated;

(6)   That, in addition to all other powers and duties now conferred by law upon the County, the County is authorized to enact ordinances, issue orders, and take other appropriate and necessary actions for the elimination of hazards to public health and safety and to abate or cause to be abated anything which the commission determines to be a public nuisance;

(7)   That manufacturers of prescription opioids and those in the chain of distribution have wrongfully abused the privilege of selling and/or providing medication to our residents and must be held accountable; and

(8)   That it is the duty of the County to vindicate the rights of the citizens of the County and take action to abate this public nuisance.

Section 6. <u>Retroactive Application</u>.

This Local Law applies retroactively.

Section 7. Severability.

If any provision, clause, sentence, or paragraph of this Local Law or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions of this Local Law which can be given effect without the valid provision or application, and to this end the provisions of this Local Law are declared to be severable.

Section 8. Effective Date.

This Local Law shall take effect upon filing with the Secretary of State.