

CDC - April 2019 Edition - Public Health Law News

10-12 minutes

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Education: JD, University of South Carolina School of Law; BA, Wofford College

Public Health Law News (PHLN): Will you please describe your career path?

Ledlie: After doing some work with environmental advocacy groups and nonprofits, I decided that going to law school would provide a path for me to advocate directly for change. While environmental law is still an interest for me, my professional work has mainly focused on public health issues arising from the use of consumer and industrial products.

PHLN: Why were you interested in environmental law?

Ledlie: I've always found both inspiration and fulfillment in being in a truly natural environment. Natural places deserve and demand our protection. There are more challenges being placed on our natural environment than ever before, and it is important for everyone to move forward with some vision of a sustainable future.

PHLN: Will you please describe your current practice areas?

Ledlie: I've had a quite varied practice representing people harmed by toxic exposures. This has included representing individual smokers and their families against cigarette manufacturers as well as people suffering from mesothelioma as a result of asbestos exposure. I recently served as co-lead counsel of a national multidistrict litigation (MDL) for US soldiers and contractors harmed as a result of exposure to burn-pit emissions in Iraq and Afghanistan. Another new toxic exposure civil case I've been working on involves methylene chloride-based paint strippers that caused accidental deaths. This work has involved advocacy to change Environmental Protection Agency (EPA) regulations, including implementing a ban on consumer sales of methylene chloride paint strippers.

Currently, I'm involved in a number of lawsuits relating to the opioid epidemic in the United States. My firm represents dozens of local and state governments in claims against opioid manufacturers, distributors, and retail pharmacies for their role as the alleged root cause of the opioid crisis. Among the allegations are that the crisis is a result of deceptive marketing practices for opioid medications and oversupply of prescription opioids that went well beyond any medical need.

While challenging and complex, this litigation is crucial in helping our cities, counties, states, and others come together to heal those who are suffering and to abate the opioid epidemic. Civil litigation is one instrument that can help shed light on how we got here and help provide the resources governments and communities need to move forward in addressing the epidemic.

PHLN: As you've said, you are currently representing several Ohio jurisdictions in the ongoing consolidated opioid litigation in federal

court. Without commenting too much on ongoing litigation, could you please describe the current consolidated cases?

Ledlie: According to CDC, an estimated 130 Americans die every day from an opioid overdose. Our case is premised on the fact that the manufacturers, distributors, and retail pharmacies of opioid medications participated in destigmatizing and overly broadening the use of prescription opioids and thereby oversupplying them. We allege that these companies did so in a manner that was unacceptable in light of the known, highly addictive risks of opioids causing not just individual cases of addiction and overdose, but also a societal epidemic that strikes at the very core of communities and their aggregate public health well-being. We recognize that opioids are necessary for many patients, including cancer patients, and for end-of-life care. The litigation focuses on finding innovative solutions and the best path forward for a highly complex problem.

PHLN: The current opioid litigation has been compared with tobacco litigation. You and your firm also have significant experience in tobacco litigation. Again, without commenting too directly on ongoing litigation, could you please describe how the opioid cases are different from traditional tobacco litigation?

Ledlie: Cigarettes and prescription opioids are both highly addictive products, but they are different. In my opinion, cigarettes are always an inherently defective product. Opiate medications, on the other hand, can be both medically necessary and appropriate for patients under the appropriate circumstances, such as reducing symptoms in people with terminal illnesses. The opioid litigation is far more complex in that there are more moving parts—cities, counties, and states each have unique damages. The defendants are also more diverse, as the litigation covers everyone in the supply chain, from

the prescription manufacturer through the retail dispenser.

PHLN: Do you consider yourself a public health lawyer? Why or why not?

Ledlie: I've always been interested in using the court system to advocate for cases that seek to protect the health and safety of both individuals and communities. I think my interest in medicine and science has certainly led me into areas of law that touch on areas of both individual and community health.

PHLN: You also mentioned working on methylene chloride regulation. What is methylene chloride, and why it could be a health threat?

Ledlie: Methylene chloride is a colorless chemical. It has historically been used in commercial and industrial paint strippers, metal cleaning, and other commercial applications. Methylene chloride fumes can be very toxic if inhaled and can kill in seconds. My work has involved "do it yourself" (DIY) paint strippers found at your local hardware store. Numerous consumers have died from inhaling fumes from these DIY products.

PHLN: How did you get involved methylene chloride regulation?

Ledlie: A young man in my community, Drew Wynne, died from using a methylene chloride paint stripper product, despite wearing gloves and a mask. After doing more research, I was shocked at how dangerous and readily available this product was. In addition to bringing a civil case against Lowes (where he purchased the product) and WM Barr (the manufacturer of Goof Off®, the product he was using), the family wanted to advocate to make sure no other family had to go through what they'd experienced. Many national retailers and hardware stores have recently taken steps to get

these products off the shelves following advocacy efforts by my clients, the Wynne family, and consumer protection organizations. The product is simply not safe for consumers to use.

PHLN: What is the current status of methylene regulation in the United States?

Ledlie: Following the advocacy efforts of the Wynne family and others, the EPA instituted a ban of most applications of methylene chloride, which should largely confine its use to certain regulated commercial settings. It is a step in the right direction and comes after years of advocacy efforts.

PHLN: What, specifically, did you and your clients do to support the promulgation of regulations to protect individuals from methylene chloride?

Ledlie: So long as methylene chloride remained on store shelves, our clients, the Wynne family, knew there was a chance that someone else could die and that families nationwide would be at risk of suffering the same tragedy they'd experienced. They chose to honor Drew's memory by advocating, with our support, for the removal of methylene chloride from Lowe's, the store where Drew purchased the product that ultimately cost him his life. Their advocacy efforts were instrumental in convincing national retailers to phase out paint strippers containing methylene chloride and are a testament to their devotion to the cause. We are hoping the recent EPA ban will be the final step in keeping consumers safe from these hazards. It is bittersweet, though, because the ban is not as protective as it should have been, as it will leave commercial workers at risk of dangerous exposure to methylene chloride.

PHLN: When does the regulation go into effect, and what does it

say?

Ledlie: The final rule was issued on March 15, 2019. According to the EPA, the agency “issued a final rule to prohibit the manufacture (including import), processing, and distribution of methylene chloride in all paint removers for consumer use. EPA has taken this action because of the acute fatalities that have resulted from exposure to the chemical. Paint removal products containing methylene chloride will not be able to be sold at any retail or distribution establishments that have consumer sales, including e-commerce sales. Those prohibitions start 180 days after the effective date of the final rule, which provides time for establishments selling this chemical to consumers to come into compliance with EPA’s ban. EPA is also requiring manufacturers, processors, and distributors to notify retailers and others in their supply chains of the prohibitions and to keep records. Additionally, EPA is soliciting public input for a future rulemaking that could establish a training, certification and limited access program for methylene chloride for commercial uses. EPA is asking for input on the key elements required for such a program.”

PHLN: Over your tenure as a public health attorney and throughout your experiences litigating public health issues, what have been some of the most important lessons you’ve learned?

Ledlie: Hard work ain’t easy, but it’s fair. You need to be willing to stay focused on the task at hand for months, years, or even longer to make a lasting impact.

PHLN: What would you say to other people who want to improve environmental and public health in their communities?

Ledlie: Start in your local community, and start today. There are so

many ways to bring about positive changes right where you are.

PHLN: Do you have any hobbies?

Ledlie: Because my job involves so much travel, I try to find time to soak in all the interesting spots off the beaten path and absorb local culture. I love food and wine and always try to figure out what is unique to where I am. I also love being home in my native low country of South Carolina: throwing a casting net, walking the beach, getting out in the boat. I recharge by getting outdoors and spending time with family and friends.

[Editor's note: Learn more about the [EPA's ban of consumer sales of methylene chloride paint removers](#)

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