

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

COMMONWEALTH OF	:	
PENNSYLVANIA, by Attorney	:	
General, JOSH SHAPIRO,	:	244 MD 2022
	:	
Petitioner,	:	

v.

AMERISOURCEBERGEN	:	
CORPORTION; MCKESSON	:	
CORPORATION; and CARDINAL	:	
HEALTH, INC.,	:	
	:	
Respondents.	:	

COMMONWEALTH OF	:	
PENNSYLVANIA, by Attorney	:	
General, JOSH SHAPIRO,	:	243 MD 2022
	:	
Petitioner,	:	

v.

JOHNSON & JOHNSON; JANSSEN	:	
PHARMACEUTICALS, INC.; ORTHO-	:	
MCNEIL-JANSSEN	:	
PHARMACEUTICALS, INC.; and	:	
JANSSEN PHARMACEUTICA, INC.,	:	
	:	
Respondents.	:	

BRIEF IN SUPPORT OF APPLICATION FOR RELIEF

**Appeal of the September 5, 2024 Decision of the Dispute Resolution
Committee of the Board of the Pennsylvania Opioid Misuse and Addiction
Abatement Trust Regarding Use of Opioid Settlement Funds**

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STATEMENT OF JURISDICTION

The Commonwealth Court of Pennsylvania has jurisdiction over this matter pursuant to 42 Pa.C.S. §761 which states in relevant part: (a) The Commonwealth Court shall have original jurisdiction of all civil actions or proceedings: ... (1) Against the Commonwealth government, including any officer thereof, acting in his official capacity, and (c) Ancillary matters. — ... To the extent prescribed by general rule the Commonwealth Court shall have ancillary jurisdiction over any claim or other matter which is related to a claim or other matter otherwise within its exclusive original jurisdiction.

The Application herein concerns the Pennsylvania Opioid Misuse and Addiction Abatement Trust (the “Trust Order”) which was established by Order of the Honorable Lori Dumas of the Commonwealth Court of Pennsylvania on July 12, 2022 and filed with the Commonwealth Court at the dockets herein. The Applicant herein is a beneficiary of the Trust Order. The Trust Order states at ¶VIII(G)(2) that: “If the Board of Trustees’ response does not resolve the beneficiary’s complaint, the beneficiary may petition this Court for a resolution of its complaint.” *See Trust Order appended hereto as Appendix 1.*

STATEMENT OF QUESTIONS INVOLVED

1. Did the Board of Trustees for the Pennsylvania Opioid Misuse and Addiction Abatement Trust err in deciding that the County of Somerset failed to spend Settlement Funds of the Trust in accordance with “Exhibit E” of the Trust?

Suggested answer: **YES**

2. Should the Board of Trustees be compelled to establish Standard Operating Procedures that implement a process for beneficiaries to seek preapproval of their anticipated expenditures of Settlement Funds?

Suggested answer: **YES**

STATEMENT OF THE CASE

Background of Opioid Litigation

On April 18, 2022, the Commonwealth of Pennsylvania (“Commonwealth”) filed a complaint naming McKesson Corporation, Cardinal Health, Inc. and AmerisourceBergen Corporation (“Distributors”) as Respondents, alleging their actions furthered the improper distribution of prescription opioid drugs made and marketed by pharmaceutical manufacturers (the “Commonwealth Distributor Claims”). The Complaint is docketed at 244 M.D. 2022. The Distributors each deny that they have engaged in any wrongdoing.

On April 18, 2022, the Commonwealth filed a Complaint naming Johnson and Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Pharmaceuticals, Inc., and Janssen Pharmaceutica, Inc. (collectively “J&J”) as Respondents, alleging that it had violated various Commonwealth laws through its manufacture, sale and promotion of prescription opioid products (The “Commonwealth J&J Claims”). The Complaint against J&J is docketed at 243 M.D. 2022. J&J denies that it has engaged in any wrongdoing.

On April 25, 2022, the Commonwealth, the Distributors and J&J filed a stipulated application to consolidate the actions Commonwealth v. AmerisourceBergen, Docket No. 244 M.D. 2022 and Commonwealth v. J&J, Docket 243 M.D. 2022.

On April 29, 2022, the Commonwealth and the Distributors filed a settlement of the Commonwealth's Distributor's claims in the form of a Final Consent Judgment. On April 29, 2022, the Commonwealth and J&J filed a settlement of the Commonwealth's J&J Claims in the form of a Final Consent Judgment.

The Distributors Settlement Agreement and J&J Settlement Agreement (the "Settlements") asserted that the Distributors and J&J shall deliver up to \$1,070,609,642.00 to the Commonwealth over as many as eighteen (18) years with payments to be made as described in Paragraph IV. C-D of the Distributors Settlement Agreement and Paragraphs V. B1 and V. B8 of the J&J Settlement Agreement.

Trust Order Created By Commonwealth Court with Directives

After a motion from the Commonwealth, the Court ordered the creation of the Pennsylvania Opioid Misuse and Addiction Abatement Trust. The Pennsylvania Opioid Misuse and Addiction Abatement Trust (the "Trust Order") was established by Order of the Honorable Lori Dumas of the Commonwealth Court of Pennsylvania on July 12, 2022. *See Trust Order appended hereto as Appendix 1.*

The Trust Order directed that all payments shall be made by the Distributors and J&J to the Trust pursuant to the terms of the Settlements. After the payment by the Trust of Attorneys' Fees and Expenses as described in Section IX, Exhibit 4 into a fund to be maintained in the Delaware County Court of Common Pleas, the Trust

Funds shall be divided into three accounts: The Commonwealth Account, the County Abatement Account and the Litigating Subdivision Account. The Commonwealth Account shall consist of Fifteen (15) % of the Trust Funds to be distributed and shall be paid to the Commonwealth for deposit to the Opioid Settlement Restricted Account as established by 72 P.S. § 1792-A.1. The County Abatement Account shall consist of Seventy (70) % of the Trust Funds to be distributed and shall be paid to Counties and other County Subdivisions in the manner described in the Allocation Section at ¶VII(A) of the Trust¹. The Litigating Subdivision Account shall consist of Fifteen (15) % of the Trust Funds to be distributed and shall be paid directly to the Litigating Subdivisions in the manner described in the Allocation Section at ¶VII(B) below.

The Order also contained Methodology and Requirements setting forth the methodology and requirements for allocation and payment of funds achieved as the result of Pennsylvania's Opioid Litigation. The Order set forth that every Participating Subdivision that agrees to participate in the Settlements and accept the Trust Funds described herein shall be subject to the jurisdiction of this Court for

¹ ¶VII(a) of the Trust Order states that the funds designated for the County Abatement Account shall be distributed directly to the Counties or such other organization designated by the County. Each County shall receive its share consistent with the methodology outlined in Exhibit 1. Exhibit 1 of the Trust Order states that County shares have been determined based on a 4-metric formula, with the weights containing All Overdose Deaths (20%), OUD-Related Hospitalizations (20%), EMS Naloxone Administrations (20%), Adjusted Morphine Milligram Equivalents (20%). Based on this 4-metric formula, the share allocated to Somerset County was .0425%.

compliance and enforcement of this order and also have standing to petition this Court for enforcement of this Order and payment of the funds allocated to it. No subdivision may challenge another subdivision's use of funds, but subdivisions in the same geographic region are encouraged to coordinate their use of Trust Funds allocated by the Order.

Concerning Governance of the Trust, ¶V(C) directs that the Trust shall be governed by a Board of Trustees consisting of the following 13 members: 1) Chairperson appointed by the Governor; 2) A secretary of one of the Commonwealth's health and human services agencies as appointed by the Governor; 3.) Four Legislative Member Trustees (appointed by various designations contained in the Trust); and 4.) Seven Regional Trustees (appointed by various designations contained in the Trust).

The Order also contains provisions that dictate how the disposition of the Trust Funds shall be disposed. Regarding Disposition of Trust Funds, ¶V(B) states that "funds obtained and ultimately paid by the Trust shall be distributed to the Commonwealth and its Participating Subdivisions only for the purposes set forth in Exhibit E to the Settlements and the Trust shall review expenditures by subdivisions which receive Trust Funds to insure that such spending was consistent with Exhibit E. *See Exhibit E of Trust Order appended hereto as Appendix 2.* Exhibit E is incorporated into this Order by reference and all spending of funds allocated by this

Order shall be consistent with the requirements of Exhibit E. The Trust shall also receive and distribute funds from Other Settlements pursuant to the terms of those Other Settlements.”

¶V(D) of the Trust Order contains a timeline of distribution and reporting requirements. This subsection states in relevant part that by September 1 of each year the Board of Trustees shall notify each County of the amounts each will receive out of the County Abatement Account. With respect to the year 2022 (the year in which the Trust Order was formed), that notification was to occur thirty (30) days before distribution of the funds allocated under the Order. Except for the year 2022, by November 15 of each year, in order for funds to be paid from the County Abatement Account, each County shall submit to the Trust the certification attached as Exhibit 2 to the Trust Order and list the payees and respective addresses to which the County Abatement Check shall be sent. The Trust Order also allows for multiple Counties and other participating subdivisions to file joint certifications for some or all of the funds allocated to them. Except for the year 2022, the Board of Trustees shall pay the funds it holds in trust less the minimum amount needed to maintain its account for holding such funds on or about December 15 of each year for funds to be distributed from the County Abatement Account. In the year 2022, the Trust shall distribute the funds it receives within 60 days of receipt in accordance with the

allocations under (II)(A)(1). The Trust Order also requires that all funds must be spent within eighteen (18) months of receipt by the recipient unless a Subdivision elects to use such funds for a multi-year capital project in accordance with Exhibit E of Settlements.

Further, the Trust Order requires that each County to submit a report to the Board of Trustees by March 15 beginning in the year 2023 year, showing the actual expenditures of such funds and the amount of funds received but not spent by the close of the previous calendar year. The Trust Order requires that funds should be spent equitably across the County in a way that most effectively abates the effects of the Opioid misuse and addiction within the judgment of the County Commissioners, County Executive and County Council. Pursuant to the Trust Order, the Board of Trustees shall set the requirements of such reporting, with input from qualified academic researchers. Importantly, the Trust Order allows the Board of Trustees to adopt any other operating procedures it deems fit, so long as such procedures are consistent with this Order and all applicable laws.

¶VI of the Trust Order, concerning Responsibilities of the Trust, states in relevant part in subsection (A) that the Trust shall be responsible for: 1. Receiving, maintaining, and investing funds until final disbursement of all settlement funds; 2. Reviewing certifications in accordance with the terms specified by [the Trust] document; 3. Reviewing annual reports on spending to ensure compliance with the

settlement terms; 4. Disbursing the Annual Shares to the Commonwealth Account, County Abatement Account and Litigating Subdivision Account for that year; 5. Otherwise establishing its own operating rules and procedures; 6. Preparing an annual report and accounting for the authorizing court which shall be made public and undertaking all other reporting requirements consistent with the terms of the settlements.

¶VIII of the Trust Order sets forth other parameters for compliance with the Trust. ¶VIII(C) requires that the proceedings and meetings of this Trust shall be governed by the Sunshine Act, 65 Pa. C. S §§ 701-16 and ¶VIII(D) states that all Trustees and any person employed by the Trust shall be governed by and shall be considered Public Officials within the meaning of the Public Official and Employee Ethics Act, 65 Pa. C. S. §§1101-13 since such person will be either a Public Official or Public employee or appointed by Public Officials or appointed pursuant to this Order to perform a function administering a trust to protect the public interest. Most importantly, concerning the instant Application, ¶VIII(F-G) dictates the process for any dispute over the spending of allocated funds to a participating beneficiary: “F. Any beneficiary of the Trust may petition the Court to allow spending on an item of abatement not contained in Exhibit E, provided such spending is deemed by the Court to reduce incidence or rate of opioid addiction and overdose deaths in the Commonwealth. G. Any beneficiary of the Trust may file a complaint with the Board

of Trustees if the beneficiary disputes an action by the Trust with regard to that beneficiary. 1. Such Complaint shall be in writing and the Board of Trustees must respond in writing to such beneficiary within 60 days of receipt of such complaint. 2. If the Board of Trustees' response does not resolve the beneficiary's complaint, the beneficiary may petition this Court for a resolution of its complaint. 3. No beneficiary shall have standing to challenge another beneficiary's use of funds under this Order or the Trust action with regard to another beneficiary.”

Board Established and Efforts to Comply with Trust Directives

As of the filing of the instant Application, the appointments of various Board Members of the Trust (the “Board”) has been established. The composition of the Board Members of the Trust is as follows: Thomas Vankirk, Esq. (Chair), Erin Dalton (Director, Allegheny County Department of Human Services), Secretary Latika Davis-Jones (Secretary, Pennsylvania Department of Drug and Alcohol programs), Shea Madden (Executive Director, West Branch Drug and Alcohol Abuse Commission), Steve Jasper (Administrator, Community Connections Mental Health and Developmental Disabilities Clearfield and Jefferson Counties), The Honorable Christine Tartaglione (Pennsylvania State Senator, District 2), the Honorable Gene DiGirolamo (Commissioner, Bucks County), the Honorable Greg Rothman (Pennsylvania State Senator, District 34), the Honorable Jim Struzzi (Pennsylvania State Representative, District 62), the Honorable Kevin Boozel

(Commissioner, Butler County), the Honorable Mark Rozzi (Pennsylvania State Representative, District 126), the Honorable Robert Postal (Commissioner, Mifflin County), and Tumar Alexander (Senior Advisor to Mayor Cherelle Parker).

At some time following the creation of the Trust in July 2022, the Board created a public website containing various information concerning the business of the Board. The website is: <https://www.paopioidtrust.org>. The website contains various information concerning the Trust, the purpose of the Trust, the Board, Reporting requirements and filings, other various resources, Board meeting information and Frequently Asked Questions (“FAQs”). To comply with the requirements of the Sunshine Act, the Board posts its upcoming and historical meeting agendas, meeting minutes, meeting schedules, videos of some of the public meetings held and also meetings concerning the proceedings of the Dispute Resolution Committee.

Evolution of Implementations Undertaken By Board Since Formation:

Modified Reporting Deadline Requirements

Based upon the information contained on the website Board’s website, the Board held their first regular meeting on July 22, 2022. Subsequent meetings were held on August 12, 2022, October 13, 2022, December 18, 2022 and January 26, 2023. A special meeting was held on March 1, 2023 wherein a Resolution was adopted waiving certain reporting requirements set forth in the original Trust. The

Resolution passed unanimously and addressed certain issues that became apparent to the Board since creation of the same. The Resolution state that “[b]ecause funds from the Distributors and Johnson and Johnson were not fully distributed to the Counties until mid to late-December 2022, most counties have not spent any such funds during the calendar year 2022. Therefore, be it resolved that the Trustees of the Pennsylvania Opioid Abuse and Abatement Trust hereby waive the requirement that each county or Health Department of the City of the First class make a report of expenditures on March 15, 2023 as required by Paragraph V D (11). Such reports shall be due March 15, 2024 for the period of September 1, 2022 to December 31, 2023.” *See Board Meeting Minutes of March 1, 2023, unpaginated page 1, appended hereto as Appendix 3.*

Based upon the Meeting Minutes posted on the Board’s website, during a regular meeting of the Board on February 8, 2024, “Chair Tom Vankirk stated that, after reviewing initial reporting, there is concern that funds are not being spent in a timely fashion as required by the Trust Order. He stated that this is not surprising, as a significant amount of the money was not received by the Counties until late December 2022. They have until June 30, 2024 to spend those funds, with reporting being required by the Trust by March 15. Penn State suggested that the Trust could receive more information if a second reporting period was required. This would provide a fuller view of the expenditure of funds received 18 months prior to June.

Chair VanKirk proposed implementing a second reporting deadline of September 15th and making it mandatory for, at least, 2024. The Chair will review the Trust Order, since an amended Order will be submitted to the Commonwealth Court. If additional language needs to be included, Chair VanKirk will discuss the same with the Office of Attorney General. The second reporting date will be reviewed in the future to make sure it is not overly burdensome on the Counties or the Trust. Chair VanKirk presented the following resolution for approval:

Resolved, that a second reporting requirement be approved by the Trust for all monies received prior to June 30th of the year in which the report is due. Such additional reporting will be due by September 15th, subject to authorizing language in the amended order and future review and adjustment by the Board of Trustees.

Senator Tartaglione made a motion to approve. Commissioner DiGirolamo seconded the motion. The motion was approved unanimously by Trustees in attendance.” *See Board Meeting Minutes of February 8, 2024, page 6, appended hereto as Appendix 4.*

Establishment of “Working Groups”

Based upon the Meeting Minutes posted on the Board’s website, during a regular meeting of the Board on February 8, 2024, “Chair VanKirk stated that the Trust’s responsibility, in addition to making sure that the money is distributed, is to then review how the money was spent and ensure such expenditures were in

accordance with Exhibit E. For the Counties that have submitted so far, one county included separate programs listed in its report. It is anticipated that this will be in line with the volume of what other Counties may report with some being considerably more.

Given the workload of the Trust, in reviewing all 67 counties reporting in detail along with conducting inquiries, the Chair proposed dividing the County reviews into 3 working groups with 4 Trustees assigned to each group, apportioning reports in a way that each working group would review reports reflecting approximately equal population numbers. Commissioners will not review their own County reports. In the case of General Assembly members, they may be assigned to Counties that they may represent, subject to strict confidentiality. Members of the General Assembly will not discuss their assigned report(s) with individual County representatives until the Trust has the opportunity to review and act on recommendations from the working groups. It was proposed that Chair VanKirk would serve on each working group, along with certain advisory members including CCAP and counsel for the Trust.

Each working group will be responsible for reporting their recommendations to the full Board of Trustees at a public meeting. The working groups will not take votes, only make recommendations. If the working groups have additional questions for the County regarding its expenditure of funds, the working group is responsible

for addressing those questions to the County, through CCAP, and providing a final recommendation to the Board. The full Board will then render a final decision in an open public meeting subject to a vote by the entire Board of Trustees. The meetings of the working groups will not be open to the public, which the Trust believes is permissible under the Sunshine Act.²

Chair VanKirk presented the following resolution for approval:

RESOLVED, that, the Board of Trustees of the Pennsylvania Opioid Misuse and Addiction Abatement Trust hereby authorizes the Chair of the Board to establish three working groups of four (4) Trustees each to review essentially equal numbers of the annual reports submitted by recipients of Trust funds pursuant to Section V.D.11 of the Order of the Commonwealth Court entered July 12, 2022. The Chair, a representative of the County Commissioners Association of Pennsylvania and counsel for the Trust will serve as advisory members of each working group.

Each working group will review the reports of expenditures of Trust funds and make recommendations to the full Board of Trustees regarding compliance with Exhibit E, appended to the Order of the Commonwealth Court entered July 12, 2022. The working groups will not have any authority to take official action but will submit

² This Applicant does not agree that the meetings of the Working Groups should not be open to the public as they otherwise constitute deliberations of a facet of the Board which are otherwise subject to public view and comment.

their recommendations to be reviewed and acted upon by the full Board of Trustees at a public meeting.

Shea Madden made a motion to approve the resolution as presented. Commissioner Postal seconded the motion. The motion was approved unanimously with no further discussion by Trustees in attendance. Members of each working group and the Counties being reviewed will be available on the Trust website.” *See Board Meeting Minutes of February 8, 2024, pages 4-5, appended hereto as Appendix 4.*

Creation of the Dispute Resolution Committee

Based upon the Meeting Minutes posted on the Board’s website, during a regular meeting of the Board on June 20, 2024, “Chair VanKirk explained the need to formalize a dispute resolution process for beneficiaries under the Trust Order. He noted that establishing a formal process for presenting disputes to the Trust would save Participating Subdivisions both time and money. Chair VanKirk further explained that, if adopted, the proposed resolution would create a committee consisting of a quorum of Trustees, and that meetings of the committee would be open to the public. The intent was for beneficiaries to present their complaints either in person or virtually before the committee as a whole. Chair VanKirk then presented the following resolution for approval:

RESOLVED, that, the Board of Trustees of the Pennsylvania Opioid Misuse and Addiction Abatement Trust hereby authorizes the Chair of the Board to establish a Dispute Resolution Committee comprised of seven (7) members of the Board of Trustees (the “Dispute Resolution Committee”) to review any Complaint filed by a beneficiary of the Trust pursuant to Section VIII.G of the Trust Order³. The Dispute Resolution Committee so established is hereby authorized to respond on behalf of the Board of Trustees to any such Complaints.

Any Complaint submitted to the Board of Trustees must be submitted in writing to the County Commissioners Association of Pennsylvania (“CCAP”), the Trust’s Administrator. The Dispute Resolution Committee, in conjunction with CCAP and counsel for the Trust, will develop a form by which all Complaints must be submitted. Any Complaint must be made in writing, utilizing the designated form, and must be filed with CCAP within a reasonable period of time from when the beneficiary knows or has reason to know of the basis of its Complaint. The Dispute Resolution Committee will have discretion to determine what constitutes a reasonable period of time under the circumstances.

The Dispute Resolution Committee will review Complaints made to the Board at a public meeting of the Dispute Resolution Committee and shall respond in

³ Based upon a review of the information posted to the Board’s website, it is not clear as to the Board’s process of selection of the individual Board Members to serve upon the Dispute Resolution Committee.

writing to the beneficiary within sixty (60) days of such Complaint. Any beneficiary filing a Complaint shall be provided the opportunity to appear before the Dispute Resolution Committee to present evidence and arguments in support thereof, which shall occur at a public meeting of the Dispute Resolution Committee.

The Dispute Resolution Committee's response to any beneficiary(ies) Complaint shall be deemed a final response by the Board of Trustees pursuant to Section VIII.G. of the Trust Order.

Tumar Alexander made a motion to approve the resolution, which was seconded by Commissioner Kevin Boozel. Commissioner Kevin Boozel inquired whether the complaints would be made public on the Trust's website and whether appearing before the Dispute Resolution Committee would preclude beneficiaries from further appealing to the Commonwealth Court. Chair VanKirk responded that information regarding the Dispute Resolution Committee meetings would be posted on the Trust's website and clarified that this process does not limit beneficiaries' rights to appeal to the Commonwealth Court.

Secretary Latika Davis-Jones then made a motion to modify the resolution so that the Dispute Resolution Committee's final response to beneficiaries must be approved by the full Board. After discussion, Chair VanKirk then called for a vote on the proposed amendment to require the Dispute Resolution Committee to make only a recommendation to the full Board, with the Board responsible for making the

final decision. The motion to amend was rejected by a majority of Trustees in attendance. Chair VanKirk then called for a vote on the main motion, which was approved by a majority of Trustees in attendance.” *See Board Meeting Minutes of June 20, 2024, pages 4-5, appended hereto as Appendix 5.*

Determinations of Beneficiary Expenditure Compliance

Based upon the Meeting Minutes posted on the Board’s website, during the regular meeting of the Board on June 20, 2024, “Chair VanKirk explained the steps that occurred before deliberating on the programs and recommendations of the Working Groups:

- The Board reviewed the recommendations made by the Working Groups to fulfill its responsibilities under the Trust Order, enabling the public to better understand how Trust funds were utilized to address opioid remediation.
- Following this meeting and subsequent Board actions, each County will receive communication from the Trust detailing approved programs compliant with Exhibit E to the Settlement Agreements, along with requests for additional information regarding programs still under consideration by the Board.
- Any programs found not compliant with Exhibit E will also be identified in the follow-up communication.

- Pursuant to the Trust Order, Counties and Litigating Subdivisions must utilize Trust funds within 18 months of receipt. However, acknowledging the need for recipients to plan the expenditure of Trust funds, the Board unanimously passed a resolution on September 7, 2023, granting requests for a 6-month extension for funds received in Wave 1 payments 1 and 2, which occurred in September 2022 and December 2022, respectively. These extensions have been granted to requesting Counties and Litigating Subdivisions, and the Board will communicate applicable deadlines accordingly.
- During the process of requesting additional information, it was discovered that certain Counties, specifically Bucks and Philadelphia, had programs with multiple sub-programs that required individual review. Consequently, the number of programs still under consideration increased significantly from approximately 360 to almost 450.

With these points clarified, the Board of Trustees proceeded to review the programs categorized as still under consideration at the May 2, 2024, public meeting and the recommendations of the Working Groups. A spreadsheet containing a list of these programs by County in alphabetical order was displayed. Each Working Group leader identified the program by County name, Program number as reported in the March 15 report from that County, Program Name, Dollars reported as spent/committed, and the Working Group's recommendation (approved, still under

consideration, or non-compliant).” See *Board Meeting Minutes of June 20, 2024*, pages 6-7, appended hereto as Appendix 5.

Relevant to the instant Application, during the June 20, 2024 Meeting “the Working Group leaders then summarized the recommendations of their respective Working Groups with respect to programs reported by Somerset, Sullivan, Tioga, Venango, Washington, Westmoreland, Wyoming, and York Counties.

RESOLUTION NO. 6 – FOLLOW-UP REPORTS: SOMERSET, SULLIVAN, TIOGA, VENANGO, WYOMING, YORK COUNTY

RESOLVED, that, the Board of Trustees of the Pennsylvania Opioid Misuse and Addiction Abatement Trust (the “Trust”), based on the recommendations of the Working Groups that met and reviewed the follow-up reports from Counties, hereby approves the following programs as compliant with the applicable settlement terms as set forth in Exhibit E described and incorporated into the July 12, 2022 Order of the Commonwealth Court that created the Trust:

- Somerset County Program Nos.: 3-4, 8
- Sullivan County Program No.: 1
- Tioga County Program Nos.: 1, 5, 7, 9
- Venango County Program No.: 1
- Wyoming County Program No.: 1
- York County Program Nos.: 5, 7, 11

Commissioner Kevin Boozel made a motion to approve the resolution as presented. Senator Christine Tartaglione seconded the motion. The motion was approved unanimously by Trustees in attendance.

AND FURTHER RESOLVED, that, the Board of Trustees of the Trust, based on the recommendations of the Working Groups, hereby disapproves the following programs as non-compliant with the applicable settlement terms as set forth in Exhibit E:

- Somerset County Program No.: 2

Commissioner Kevin Boozel made a motion to approve the resolution as presented. Commissioner Robert Postal seconded the motion. The motion was approved unanimously by Trustees in attendance.” *See Id. pages 11-12.*

PROCEDURAL POSTURE OF INSTANT APPLICATION CONCERNING SOMERSET COUNTY

On or about September 30, 2022, Somerset County (the “County”) received its first round of Settlement Funds (the “funds” from the Trust totaling \$120,944.21. Subsequently, the County received another distribution of funds on December 30, 2022. The no funds were spent until May 9, 2023. The first reporting by the County was made on January 30, 2024. *See R.R. pp. 37-48.*

The County received correspondence from the Board on May 2, 2024 requesting additional information. *See R.R. pp. 49-52.* The County provided said

requested information on May 2, 2024. *See Id.* Then, the Board issued a Notification of Approval and/or Additional Information Required Regarding Current Remediation Programs as Determined by the Board of Trustees of the Trust on June 20, 2024. *See R.R. pp. 55-56.* By way of this Notification, which was compiled as a result of the Board's June 20, 2024 decision to find the County's utilizing settlement funds from the trust on the program "Movement Outdoors" (the "Program") as non-compliance with Exhibit E, the Board notified the County of its decisions of the expenditures undertaken with the funds distributed to the County. The County funded this program in the amount of \$30,000.00.

On July 11, 2024, the County submitted a Complaint to the Board regarding the decision to render the funding of the Program non-compliant with Exhibit E of the Trust. *See R.R. pp. 57-59.* The Board notified that the Complaint would be heard by the Dispute Resolution Committee on Thursday, September 5, 2024 at 12:30 p.m. EST. The communication stated that the County would be allotted 30 minutes to present the appeal, which would be inclusive of any time for questions the Committee members may have. Following the presentation, the Dispute Resolution Committee would deliberate in Executive Session and provide a decision in the public meeting.

A duly advertised public meeting was held on September 5, 2024 for the Dispute Resolution Committee to hear the Complaint submitted by the County.⁴ The Dispute Resolution Committee was comprised of the following Board Members: Thomas Vankirk, Esq. (Chair), Erin Dalton (Director, Allegheny County Department of Human Services), Shea Madden (Executive Director, West Branch Drug and Alcohol Abuse Commission), The Honorable Christine Tartaglione (Pennsylvania State Senator, District 2), the Honorable Kevin Boozel (Commissioner, Butler County), the Honorable Robert Postal (Commissioner, Mifflin County), and Tumar Alexander (Senior Advisor to Mayor Cherelle Parker). Present for the County was Erin Howsare, Somerset County Single County Authority Director, Somerset County Commissioner Pamela Tokar-Ickes, Solicitor Benjamin Carroll, Esquire as well as Jaclyn Shaw, Esquire.

Said meeting was recorded and posted on the Board's website. The recorded portion of the proceeding was approximately forty-seven (47) minutes in length, which included testimony by the County and its representatives, inquiries by the Board and corresponding responses from the County as well as the Committee's rendering its decision. The Committee took approximately twenty (20) minutes to conduct an executive session for purposes of discussing the contents of the record

⁴ For purposes of this Application, the County obtained a written transcript of this proceeding which has been submitted to this Court simultaneous with the instant Application.

prior to rendering its decision. Said executive session was not recorded. Ultimately, the Committee affirmed the original decision of the Board in determining that the County's use of funds to the Program was non-compliant with Exhibit E.

The Considerations at the Public Meeting of the Dispute Resolution Committee

Approximately thirty-eight (38) minutes were allocated to testimony at the September 5, 2024 meeting. During this meeting, Erin Howsare, Director of the Somerset County Single County Authority (the "SCA") presented to the members of the Dispute Resolution Committee (the "DRC") the reasoning behind the County's expenditure of the funds to the Program. In her testimony, she stated that the County implemented an open application process for interested entities seeking use of the funds available through the Trust to the County. N.T. 6:18. She stated that Movement Outdoors is a new, community program that is a non-profit 501(c)(3) that sought funding from the County. N.T. 7:6-11. The program is available for school children in grades 9th through 12th from the Somerset Area School District, which is the largest school district within the County. N.T. 7:16-17. She stated that the program provides weekly opportunities for outdoor activities and provides mentors for the youth involved in the Program. N.T. 7:6-11, 19-25. The activities occur after school so the youth that are involved are typically not youth that are

involved in sports or other extra-curricular activities through the school and that in doing so the Program targets the “at-risk” population of students. N.T. 8:3-10.

She further stated that the SCA advisory board reviews the applications submitted by interested entities and determines whether they are eligible for the Funds. N.T. 8:11-14. She articulated that she has been with the SCA for twenty (20) years and is involved in all of the County’s drug and alcohol programs. N.T. 8:20, 23:9-14. She purports that the expenditure of the Funds to the Program was based on her interpretation of Exhibit E, specifically Section G(9), being that the federal strategies adopted for drug and alcohol prevention include Healthy Alternative Activities such as the Program. N.T. 8:24-25, 9:1-6. She also stated that Alternative Activities are a Department of Drug and Alcohol approved activity. N.T. 18:6-9. She articulated that the updated number of youths that have benefitted from the Program was 369 as of the hearing. N.T. 10:7-9.

A question was posed to Ms. Howsare as to whether or not all youths involved were volunteers or if they had to apply for the program. Ms. Howsare responded that the youths were comprised of both volunteers and students who may be recommended to the program by teachers or other school staff members. N.T. 10:17. In response to further inquiry, she stated that no student is “turned down” from the program and there is no form completed for admission into the program other than liability waivers. N.T. 10:14-18. After inquiry, she elaborated that students who are

involved in sports that only occur during certain times of the year can also participate in the program in their respective sport's off-season. N.T. 11:19-24.

The DRC stated that they were having a difficult time seeing a focus on the "at-risk" population of children since the program is open to all students. N.T. 12:14-18. In response, Ms. Howsare stated that in complying with prevention there does not need to be a focus on "at-risk" children and if this program were to be categorized through DDAP it would be considered a general population activity with a focus on the "at-risk" youth since most of them are not enrolled in sports. N.T. 13:9-21.

When asked about the percentage of the funds were spent on targeting OUD, Ms. Howsare explained that she indicated 100% because she felt that 100% of the Funds remitted to the program were spent for that purpose. N.T. 14:14-22. She admitted she cannot narrow down specific youth because there are no "risk assessments" conducted on the youth. N.T. 15:19-25. She also indicated that the Program is not exclusively funded by the County's Funds and that she is not privy to other funding information, as it is not a County program but rather a community program. N.T. 16:1-4.

The DRC highlighted that the preambles to the sections of Exhibit E should be emphasized because they include verbiage that the programs in which funds are allocated should be "evidence based" or "evidence informed." In response, Ms. Howsare candidly stated that the Program is not an evidence-based program. N.T.

19:13-25, 20:1-11. In support of her argument, she reiterated that Healthy Alternative Activities is one of the six recognized federal strategies used in drug and alcohol substance abuse prevention through CSAP (Center for Substance Abuse Protection). Upon inquiry as what are the other federal strategies, she indicated Education, Information Dissemination, Problem Solving, Community Based Process, Environmental and Healthy Alternative Activities. N.T. 17:22-25.

The DRC inquired as to whether there was counseling provided by the Program for Opioid Use Disorder (OUD). Ms. Howsare stated that there is no counseling and that would be part of an “evidence-based” program, but rather the Program focuses on skill development, mentoring and healthy decision making. N.T. 18:21-25. Upon inquiry from the DRC as to what constituted “evidence-based programming,” Ms. Howsare stated that those programs are curriculum-based, have been tested by sources and typically include pre-testing and post-testing to show their progress. N.T. 19:13-17. She stated that the Program does not contain a curriculum but rather encourages the youth to avoid exposure to OUD. N.T. 20:6-11. Commissioner Tokar-Ickes emphasized that unlike traditional sporting activities through the school, equipment is provided by the Program for the youth involvement so that there is no financial burden on the youth or their family. N.T. 12:4-10. She further emphasized that the Program encourages resilience against OUD. N.T. 20:19-20.

The DRC noted that they place heavy reliance on Exhibit E as it was formatted for these specific Opioid Settlement Funds. N.T. 21:12-15. They noted they took issue with the Program's general involvement of youth as opposed to a targeting prevention of opioid use. N.T. 22:1-3. The DRC also noted that they acknowledge the Opioid Funds are "wonky" for SCAs. N.T. 25:16.

An executive session was taken by the DRC from 1:13pm until 1:36pm. Upon reconvening, a roll-call vote was taken on whether the County's funding of the Program was compliant with Exhibit E. Voting "No" were Mr. Boozal, Mr. Postal, Ms. Dalton, Ms. Tartaglione, and Mr. Alexander. Voting "Yes" was Ms. Madden. N.T. 28:11-22. Based on the 5-to-1 vote, the County's funding was deemed non-compliance with Exhibit E. In explanation to the County, the DRC stated that they found that the Program is not "evidence-based" and that they needed to spend the funds another way. N.T. 29:1-5. They advised that pursuant to the Trust, their decision is appealable to the Commonwealth Court. N.T. 29:10-12. Upon inquiry from Ms. Howsare regarding the funding that had already been spent in fiscal years 2022-2023 and 2023-2024, the DRC provided the County with a few suggestions as to how to account for the funding moving forward and that an extension may be submitted by the County to allow for additional time to re-categorize funds received by the County moving forward. N.T. 30-32.

SUMMARY OF ARGUMENT

The County submits to this Court that the County's expenditure on the Program "Movement Outdoors" was compliant with Exhibit E as an evidence-informed program pursuant to under Schedule B, Part Two, subsection G(9). Subsection G is titled "Prevent Misuse of Opioids" and is described as "Support efforts to discourage or prevent misuse of opioids through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:" Subsection 9 reads as follows: "School-based or youth-focused programs or strategies that have demonstrated effectiveness in preventing drug misuse and seem likely to be effective in preventing the uptake and use of opioids."

The County submits that the decision of the Board of Trustees to deem the expenditure as non-compliant Trust Order, and therefore Exhibit E, is improper and prejudicial to the County as the decision of the Board is retroactive to the expenditure of the Settlement Funds. Further, the County requests this Court to compel the Board of Trustees to establish Standard Operating Procedures that would otherwise create a pre-approval process for beneficiaries of the Trust regarding their anticipated expenditures of Settlement Funds.

ARGUMENT

Somerset County brings the instant Application for Relief for the purpose of requesting this Court to overturn the decision of the Dispute Resolution Committee and the Board of the Pennsylvania Opioid Misuse and Addiction Abatement Trust's determination that the County's expenditure of Trust Funds on the Program "Movement Outdoors" as non-compliant with Exhibit E as the classification is improper and is based on a misreading of Exhibit E.

Further, the process which the Board currently utilizes in determining that a participating subdivision's funding is "non-compliant" with the terms of the Trust, including Exhibit E, is prejudicial to the beneficiaries as it occurs after the funds are already expended. To date, the Board has failed to implement appropriate processes for participating subdivisions to seek "pre-approval" concerning expenditures. Therefore, allowing the Board to determine that Funds that have already been allocated to programs (and what are ultimately already "spent") is prejudicial to the participating subdivisions.

In support thereof, the County's submits the averments contained in the following paragraphs.

I. Somerset County's Expenditure to Movement Outdoors was Proper as It Complied with Exhibit E as an "Evidence-Informed" Program

Exhibit E and Its Contents

¶V(B) of the Trust concerning Disposition of Trust Funds states: “The funds obtained and ultimately paid by the Trust shall be distributed to the Commonwealth and its Participating Subdivisions only for the purposes set forth in Exhibit E to the Settlements and the Trust shall review expenditures by subdivisions which receive Trust Funds to insure that such spending was consistent with Exhibit E. Exhibit E is incorporated into this Order by reference and all spending of funds allocated by this Order shall be consistent with the requirements of Exhibit E. The Trust shall also receive and distribute funds from Other Settlements pursuant to the terms of those Other Settlements.”

Exhibit E is a fifteen (15) page Exhibit appended to the Trust. It is titled a “List of Opioid Remediation Uses” with brief descriptions of Core Strategies and Approved Uses that are accepted for purposes of utilization of Settlement Funds. Contained within Exhibit E are two schedules: Schedule A “Core Strategies” and Schedule B “Approved Uses.” Schedule B is sub-divided into two parts: Part One “Treatment” and Part Two “Prevention.” For purposes of Settlement Fund expenditures, it is understood that any beneficiary of the Trust Funds may choose Remediation Uses from either schedule contained within Exhibit E.

Instant to this Application is the County’s expenditure to the Program under Schedule B, Part Two, subsection G(9). Subsection G is titled “Prevent Misuse of Opioids” and is described as “Support efforts to discourage or prevent misuse of

opioids through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:” *See Exhibit E, Schedule B, Part II(G)(9) appended hereto as Appendix 2.* Subsection 9 reads as follows: “School-based or youth-focused programs or strategies that have demonstrated effectiveness in preventing drug misuse and seem likely to be effective in preventing the uptake and use of opioids.” *See Id.* Exhibit E provides no further explanation nor detail as to examples of what constitutes an example of a program anticipated by (G)(9), but the pretext to subsection G describes it as at least having to be “evidence-based” or “evidence-informed.”

Evidence-Based versus Evidence-Informed Standards for Prevention

Exhibit E does not define what are “evidence-based” nor “evidence-informed” prevention programs. Due to this fact, it is necessary that parole evidence be relied upon to articulate what are the definitions. As defined by Penn State’s College of Health and Human Development, an “Evidence-Based” Program is one that: Demonstrated effectiveness in rigorous scientific evaluations including randomized control trials; was assessed in large studies with diverse populations or through multiple replications by independent researchers (not the developer of the model); and resulted in significant and sustained effects for a minimum of 6 months, post

program⁵. In other words, these are programs that have been rigorously tested in controlled settings, are proven effective, ones where participants build skills to take control of their health and that must be evaluated using an experimental design, submitted to peer review, and presented in a manual for local implementation⁶.

As to an “evidence-informed” program, an evidence-informed approach to project design, delivery and evaluation considers research evidence alongside practitioner expertise and lived experience knowledge. In evidence-informed practice, research is only one of the evidentiary inputs used, enabling the evidence-informed approach to be person-centered and respond to context⁷. The three types of evidence that are regularly included in evidence-informed practice are research, practitioner and lived experience evidence.

Research evidence comes from finding and applying research conducted externally to a specific initiative. It provides credible knowledge to project, program or service design through rigorous research methods, and answers questions relating to the social problem or opportunity your project aims to address. Research evidence might include cohort studies, qualitative research, surveys, and systematic reviews available in journals, research papers, studies, or books. Practitioner evidence uses

⁵ EPIS, *Evidence Based Prevention and Intervention Support*, “What Does it Mean When We Say a Program is Evidence-Based”?, <https://www.episcenter.psu.edu/node/1124>.

⁶ *About Evidence Based Programs*, National Council on Aging (Feb. 27, 2022) <https://www.ncoa.org/article/about-evidence-based-programs/>

⁷ 101 | *Evidence-informed practice: A beginner’s guide*, Western Australian Community Impact Hub (May 15, 2023) <https://communityimpacthub.wa.gov.au/learn-from-others/insights/101-evidence-informed-practice-a-beginner-s-guide/>

the expertise and experience of practitioners working in a specific field in the design and delivery of initiatives. Practitioner evidence can include skills, knowledge and observations developed by individuals or organizations over time. Lived experience evidence comes from the actual, specific way in which people experience something. Examples might include how someone experiences homelessness, the ways in which people access specific services, or how people live with chronic illness. Lived experience evidence, therefore, is knowledge held, and shared, by individuals or communities. Lived experience evidence can be collected through research methods, or through actively collaborating and co-designing projects alongside those with lived experience.

Federal Strategies Recognized by Center for Substance Abuse Prevention (CSAP)

As referenced by Ms. Howsare in her testimony to the DRC, the Pennsylvania Department of Drug and Alcohol Programs defined six Federal Strategies, identified by the Center for Substance Abuse Prevention (CSAP), that comprise the overall concept of services that prevent or reduce the use of alcohol, tobacco and other drugs⁸.

⁸ Prevention and Intervention Categorization and Coding Guide, Pennsylvania Department of Drug and Alcohol Programs (Nov. 16, 2023), https://www.ddap.pa.gov/Documents/Data%20System/PrevAgency_DDAP%20Prevention%20Coding%20Guide.pdf

The six Federal Strategies are: 1) *Information Dissemination* – INF, GIN – provides awareness and knowledge on the nature and extent of substance use, addiction, and problem gambling and the effects on individuals, families and communities. It also provides knowledge and awareness of available prevention programs and services. Information dissemination is characterized by one-way communication from the source to the audience, with limited contact between the two. 2) *Education* – EDU, GED – involves two-way communication, which is distinguished from the Information Dissemination category by the fact that interaction between the educator/facilitator and the participants is the basis of its activities. Activities under this category are to affect critical life and social skills, including decision-making, refusal skills, critical analysis (e.g., of media messages) and systematic judgment abilities. Note: Speaking Engagements do not fit under this Federal Strategy. 3) *Alternative Activities* – ALT, GAL – **operates under the premise that healthy activities will deter participants from the use of alcohol, tobacco and other drugs (ATOD)** and participation in gambling activities (emphasis added). The premise is that constructive and healthy activities offset the attraction to, or otherwise meet the needs usually filled by ATOD and gambling and would, therefore, minimize or eliminate use of ATOD and participation in gambling activities. 4) Problem Identification and Referral – PIR, GIR – targets those persons who have participated in illegal or age-inappropriate use of tobacco or alcohol, and

those who have participated in first use of illicit drugs in order to assess if their behavior can be addressed through education. This strategy also targets individual who have engaged in age-inappropriate or problem gambling activities. 5) *Community-Based Process* – CBP, GCB – aims directly at building community capacity to enhance the ability of communities to more effectively provide prevention and treatment services for substance use and problem gambling disorders. Activities include organizing, planning, enhancing efficiency and effectiveness of services, inter-agency collaboration, coalition building and networking. 6) *Environmental* – ENV, GEN – establishes or changes written and unwritten community standards, codes, ordinances and attitudes thereby influencing incidence and prevalence of substance use and problem gambling in the population.

Somerset County’s Compliance with Exhibit E, Reliance on Federal Strategies and Considering Movement Outdoors as Evidence-Informed

In effort to comply with the terms of the Trust Order, including the provisions set forth in Exhibit E, the County undertook certain measures to ensure the same. Upon notice of the County being considered a beneficiary under the Trust, the County designated their Director of their Single County Authority to manage the use of the Funds due to her extensive knowledge and expertise in drug and alcohol treatment and prevention and also due to her direct involvement with and oversight of all drug and alcohol prevention programs within the County. As testified to by Ms. Howsare during the September 5, 2024 DRC public meeting, the County

implemented an application process in which interested entities would submit applications to the County for it to consider whether they would be an appropriate expenditure for the Funds. N.T. 6:17-18, 8:11-12. Ms. Howsare, along with her advisory board, would review the applications and, based on the Trust and Exhibit E, would determine whether or not an interested applicant met the requirements to constitute an appropriate expenditure of the Funds. N.T. 8:12-19.

In her testimony, Ms. Howsare testified that the Program was not an evidence-based one and that it did not have a curriculum. N.T. 20:6-11. The DRC placed an emphasis in rendering their decision that because the Program was not evidence-based it did not comply with the requirements set forth in Exhibit E. N.T. 29:1-5. However, what the DRC failed to articulate was how the Program did not comply with Exhibit E as it is an evidence-informed program, which is a permitted use for Trust Funding expenditure pursuant to Exhibit E.

In its Complaint to the Board after their initial determination that the Program was non-compliant with Exhibit E, the County asserted that “the Somerset SCA for Drug & Alcohol completes prevention needs assessments according to DDAP’s direction and then compiles prevention plans. Healthy Alternative Activities is part of the prevention plan for Somerset County based on the need for youth to have prosocial involvement (#2 highest protective factor for Somerset County youth according to the 2023 PAYS results). Protective factors include individuals, families

or communities that support resilience, help people more effectively manage stressful events, and strengthen other characteristics that minimize the risk of mental health or substance use challenges. Movement Outdoors is providing prosocial involvement opportunities.” *See R.R. pp. 57-59.*

At the September 5, 2024 DRC public meeting, Ms. Howsare testified extensively that she has been with the Single County Authority for over twenty (20) years and is actively involved in *all* drug and alcohol programs within the County. N.T. 8:20, 23:10-12. Based on her experience in the field and knowledge of other evidence-informed programs, she articulated that her reading of Exhibit E lead her to the conclusion that the Program would qualify as a Healthy Alternative Activity, which is a strategy of drug and alcohol prevention that is widely accepted by the federal government by way of the Center for Substance Abuse Prevention (CSAP). N.T. 18:6-9. Seemingly, the DRC were unfamiliar with these coding guidelines as there was inquiry by the DRC as to what they actually were. N.T. 18:11-15. She also stated that she worked with the SCA advisory board in considering applications made by interested entities seeking to receive Funds from the County. N.T. 8:11-12. By all accounts, Ms. Howsare, with her knowledge and expertise in the area of drug and alcohol prevention, as well as her reliance on her advisory board in rendering the decision to allocate Funds to the Program based on their knowledge of widely-accepted strategies, prove that the Program was one that is evidence-informed and

complied with Exhibit E. Proper consideration was not afforded to these factors and, as such, the DRC and ultimately the Board's decision to render the County's funding of the Program with the Trust Funds was improper.

II. The Board's Failure to Implement a Proactive Approval Process for Beneficiaries' Fund Expenditures, and therefore their Retroactive Determination of Non-Compliance, is Prejudicial

Deadlines for Fund Distribution

As explained above, the Trust dictates deadlines in which fund distribution take place (with the exception for year 2022 arguably because it was the initial year for settlement fund sourcing). The deadlines are: September 1 – Notification to the Participating Subdivision as to Fund amounts to be received. November 15 – Certification by Participating Subdivision that it will utilize Funds in compliance with the Trust. December 15 – Distribution of Funds to Participating Subdivisions. March 15 (following year) – Reports due from Participating Subdivisions as to actual expenditure of Funds and amounts not spent.

The Board has the discretion to oversee and ensure compliance with the settlement terms of the Trust pursuant to ¶VI(A). To its credit, the Board has already modified certain deadlines for reporting and has granted extensions beyond the required 18-month Fund spending period imposed upon participating subdivisions due to various, perhaps unsurprising, circumstances. These modifications can be

seen by the Board's resolution to extend the requirement that each county or Health Department of the City of the First class make a report of expenditures from March 15, 2023 to March 15, 2024 for the period of September 1, 2022 to December 31, 2023 during their Special Meeting of March 1, 2023. Further modification to original reporting anticipated by the Trust is seen by the Board's decision at their February 8, 2024 meeting to implement a second reporting requirement of September 15th for participating subdivisions for all monies received prior to June 30th of the year in which the report is due.

Responsibility of the Board with Respect to Compliance

Additionally, the Board has undertaken efforts to establish processes for addressing spending compliance with the Trust and Exhibit E, such as the creation of "Working Groups" and the creation of the DRC and its corresponding standard operating procedures. Although the Board has undertaken efforts to ensure compliance with the Trust, what must be noted is that since the creation of the Trust in July 2022, and the first Fund distribution having occurred in December of 2022, nothing stood in the way of the Board from implementing a process that would afford the beneficiaries of the Trust the opportunity to seek "pre-approval" from the Board with respect to the spending of Trust Funds. ¶VI(A)(5) specifically affords the Board the discretion to adopt its own operating rules and procedures, which it already has done and continues to do on a seemingly ongoing basis.

The Board's intended purpose for creation of the DRC, per its own words at the beginning of the September 5, 2024 meeting with the County, was to "keep expenses down" for all parties. N.T. 4:19-25. However, due to the few procedural implementations made by the Board to date and the somewhat unpredictable funding of the settlement proceeds, the Board is retroactively determining that certain past expenditures are "non-compliant" with Exhibit E and are putting the onus on the beneficiaries to scramble to try to figure out a resolution to monies that have already been spent by their various programs. It is quite clear that the contents of some subsections of Exhibit E are subjective, and that one person or entity can very easily construe a program as compliant with Exhibit E while another may not, as is the case with the instant Application. It should not be the burden of the beneficiary to the Trust to be given a single document, which is obviously open to the interpretation of their directors and officials of drug and alcohol programming within their districts, and be expected to guess what the level of compliance is going to be according to the Board's interpretation without more specific direction or early-stage information gathering process.

As for the determination of "non-compliance" being after Funds are already spent, as is the case here as some of the Funds were distributed over a calendar year before the Board determined their "non-compliance," the same is absolutely prejudicial. A comment was made after the DRC rendered their decision in this case

that essentially stated that the Commissioners of the Counties assume the responsibility for ensuring the Funds are spend appropriately. It is the position of this beneficiary that as the Trustees and those that are tasked with managing the Trust, it undeniably should be the responsibility of the Board to establish *proactive* measures and guidance on spending expectations. As the same has not been accomplished, the County would respectfully request more directive from the Board to include information dissemination, a proactive pre-approval process as well as a waiver for funds spent through 2024 until such efforts can be implemented.

Considerations Given to Subsequent Denials

In the Applicant’s final argument, it is necessary to point out that since the DRC issued its decision for this County’s expenditures, they held another meeting on Monday, September 23, 2024. The purpose of this paragraph is not to delve into the merits of those considerations, as it is noted the same is prohibited by the Trust itself (§VIII(G)(3)), but rather point out two items that were admitted by the DRC Board members during that meeting. The first is the mention of what the Board referred to as its “Technical Advisory Group” (the TAG). To the knowledge of this County, no official correspondence to the County of the existence of the Technical Advisory Group has ever been communicated so as to alert the County of the available of such a resource. Upon inquiry to the Board of the existence of the same, it was indicated that the County “can submit inquiries through the Contact Us page

on the Trust's website: <https://www.paopioidtrust.org/contact-us>. TAG reviews these inquiries and provides informational or advisory responses to offer guidance. Please note that these responses are intended to be helpful but do not constitute official actions or decisions by the Board of Trustees or TAG.” The first this County heard of the existence of this resource was by way of viewing, as an observer, the DRC meeting subsequent to its own. It should be noted that no information about the availability of this resource is obvious by way of the Board’s website, and an electronic submission by way of a “Contact Us” page certainly does not imply the existence of the resource. Again, this should have been explicitly noticed to the beneficiaries as a resource at the very early stages of the Trust formation or, at the very least, upon distribution of the funds.

The second item of note derived from the second DRC meeting on September 23, 2024 was that there was a clear admission by one DRC Board Member that the Board needs to make effort to establish and educate counties as to what constitutes “evidence-based” program funding. What is also worthy of note is that the DRC made direct reference to their decision in this matter in tandem with this decision herein as an example to other counties on their program funding efforts. It is clear that the processes designed by the DRC and ultimately the Board are ongoing, however, it is imperative that the decisions rendered by the DRC do not unfairly prejudice the beneficiaries of the Trust. To current, prejudice has occurred and the

County would submit that it should be incumbent on the Board to address this ongoing issue as quickly and as efficiently as possible.

CONCLUSION

The County submits to this Court that the County's expenditure on the Program "Movement Outdoors" was compliant with Exhibit E as an evidence-informed program pursuant to under Schedule B, Part Two, subsection G(9).

The County further submits that the decision of the Board of Trustees to deem the expenditure as non-compliant Trust Order, and therefore Exhibit E, is improper and prejudicial to the County as the decision of the Board is retroactive to the expenditure of the Settlement Funds.

Finally, the County requests this Court to compel the Board of Trustees to establish Standard Operating Procedures that would otherwise create a pre-approval process for beneficiaries of the Trust regarding their anticipated expenditures of Settlement Funds.

Respectfully submitted,

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Its Board of Commissioners, Commissioner Pamela Tokar-Ickes,
Commissioner Brian Fochtman, and Commissioner Irv Kimmel*

Date: October 4, 2024

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

COMMONWEALTH OF :
PENNSYLVANIA, by Attorney :
General, JOSH SHAPIRO, : 244 MD 2022
 :
Petitioner, :
 :
v. :
 :
AMERISOURCEBERGEN :
CORPORTION; MCKESSON :
CORPORATION; and CARDINAL :
HEALTH, INC., :
 :
Respondents. :

COMMONWEALTH OF :
PENNSYLVANIA, by Attorney :
General, JOSH SHAPIRO, : 243 MD 2022
 :
Petitioner, :
 :
v. :
 :
JOHNSON & JOHNSON; JANSSEN :
PHARMACEUTICALS, INC.; ORTHO- :
MCNEIL-JANSSEN :
PHARMACEUTICALS, INC.; and :
JANSSEN PHARMACEUTICA, INC., :
 :
Respondents. :

CERTIFICATE OF COMPLIANCE

We, Benjamin A. Carroll, Esquire and Jaclyn M. Shaw, Esquire, certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*

that require filing confidential information and documents differently than non-confidential information and documents.

/s/ Benjamin A. Carroll

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Date: October 4, 2024

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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PHARMACEUTICALS, INC.; ORTHO- :
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PHARMACEUTICALS, INC.; and :
JANSSEN PHARMACEUTICA, INC., :
 :
Respondents. :
 :

CERTIFICATE OF SERVICE

We hereby certify that on October 4, 2024 we served the foregoing document upon the persons and in the manner indicated below, which service satisfies the requirements of Pa. R.A.P. 121:

Briana Anderson, MPA
Opioid Trust Administrative Director
Pennsylvania Opioid Misuse and Addiction Abatement Trust
Via email: Administrator@paopioidtrust.org
And via PACFILE

Office of the Attorney General
Attn: James A. Donahue III, Esq.
Atty Gen Public Protection Division
14TH Fl Strawberry Sq
Harrisburg, PA 17120
Via email: jdonahue@attorneygeneral.gov
And via PACFILE

/s/ Benjamin A. Carroll
Benjamin A. Carroll, Esquire
Counsel for Applicant

/s/ Jaclyn M. Shaw
Jaclyn M. Shaw, Esquire
Counsel for Applicant

APPENDIX 1

Pennsylvania Opioid Misuse and Addiction Abatement Trust (the “Trust Order”)

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

COMMONWEALTH OF
PENNSYLVANIA, by Attorney
General, JOSH SHAPIRO,

Petitioner,

v.

244 MD 2022

AMERISOURCEBERGEN
CORPORATION; MCKESSON
CORPORATION; and CARDINAL
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Respondents.

COMMONWEALTH OF
PENNSYLVANIA, by Attorney
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Petitioner,

v.

243 MD 2022

JOHNSON & JOHNSON; JANSSEN
PHARMACEUTICALS, INC.; ORTHO-
MCNEIL-JANSSEN
PHARMACEUTICALS, INC.; and
JANSSEN PHARMACEUTICA, INC.,

Respondents.

**PENNSYLVANIA OPIOID MISUSE AND ADDICTION
ABATEMENT TRUST**

I. INTRODUCTION

- A. On April 18, 2022, the Commonwealth of Pennsylvania (“Commonwealth”) filed a complaint naming McKesson

Corporation, Cardinal Health, Inc. and AmerisourceBergen Corporation (“Distributors”) as Respondents, alleging their actions furthered the improper distribution of prescription opioid drugs made and marketed by pharmaceutical manufacturers (the “Commonwealth Distributor Claims”).

- B. The Complaint is docketed at 244 M.D. 2022.
- C. The Distributors each deny that they have engaged in any wrongdoing.
- D. On April 18, 2022, the Commonwealth filed a Complaint naming Johnson and Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Pharmaceuticals, Inc., and Janssen Pharmaceutica, Inc. (collectively “J&J”) as Respondents, alleging that it had violated various Commonwealth laws through its manufacture, sale and promotion of prescription opioid products (The “Commonwealth J&J Claims”).
- E. The Complaint against J&J is docketed at 243 M.D. 2022.
- F. J&J denies that it has engaged in any wrongdoing.
- G. On April 25, 2022, the Commonwealth, the Distributors and J&J filed a stipulated application to consolidate the actions

Commonwealth v. AmerisourceBergen, Docket No. 244 M.D. 2022 and Commonwealth v. J&J, Docket 243 M.D. 2022.

- H. On April 29, 2022, the Commonwealth and the Distributors filed a settlement of the Commonwealth's Distributor's claims in the form of a Final Consent Judgment.
- I. On April 29, 2022, the Commonwealth and J&J filed a settlement of the Commonwealth's J&J Claims in the form of a Final Consent Judgment.
- J. The Distributors Settlement Agreement and J&J Settlement Agreement (the "Settlements") will deliver up to \$1,070,609,642 to the Commonwealth over as many as 18 years with payments to be made as described in Paragraph IV. C-D of the Distributors Settlement Agreement and Paragraphs V. B1 and V. B8 of the J&J Settlement Agreement.

After a motion from the Commonwealth, the Court orders the following:

II. ORDER

- A. **The creation of the Pennsylvania Opioid Misuse and Addiction Abatement Trust.**
 - 1. This Order creates a trust known as the Pennsylvania Opioid Misuse and Addiction Abatement Trust (the

“Trust”). All payments shall be made by the Distributors and J&J to the Trust pursuant to the terms of the Settlements. After the payment by the Trust of Attorneys’ Fees and Expenses as described in Section IX, Exhibit 4 into a fund to be maintained in the Delaware County Court of Common Pleas, the Trust Funds shall be divided into three accounts: The Commonwealth Account, the County Abatement Account and the Litigating Subdivision Account.

- a. The Commonwealth Account shall consist of Fifteen (15) % of the Trust Funds to be distributed and shall be paid to the Commonwealth for deposit to the Opioid Settlement Restricted Account as established by 72 P.S. § 1792-A.1.
- b. The County Abatement Account shall consist of Seventy (70) % of the Trust Funds to be distributed and shall be paid to Counties and other County Subdivisions in the manner described in the Allocation Section at ¶VII(A) below.

c. The Litigating Subdivision Account shall consist of Fifteen (15) % of the Trust Funds to be distributed and shall be paid directly to the Litigating Subdivisions in the manner described in the Allocation Section at ¶VII(B) below.

B. **Methodology and Requirements.** This Order sets forth the methodology and requirements for allocation and payment of funds achieved as the result of Pennsylvania’s Opioid Litigation, as defined below. Every Participating Subdivision that agrees to participate in the Settlements and accept the Trust Funds described herein shall be subject to the jurisdiction of this Court for compliance and enforcement of this order and also have standing to petition this Court for enforcement of this Order and payment of the funds allocated to it. No subdivision may challenge another subdivision’s use of funds, but subdivisions in the same geographic region are encouraged to coordinate their use of Trust Funds allocated by this Order.

III. DEFINITIONS

- A. **OAG** – The Pennsylvania Office of Attorney General.
- B. **Commonwealth.** The Commonwealth of Pennsylvania.

- C. **Companies** – collectively means McKesson Corporation, Cardinal Health, Inc., AmerisourceBergen Corporation, and J&J.
- D. **Board of Trustees** – Trustees appointed pursuant to this Order to manage and direct the Trust.
- E. **Covered conduct** – means “Covered Conduct” as defined in the Distributors Settlement Agreement at Paragraph I.O. and in the J&J Settlement Agreement at Paragraph I.16.
- F. **Counties**—Subdivisions, as enumerated and classified in 16 P.S. § 201 to 211.
- G. **County Subdivisions** – All political subdivisions within a given county, including, but not limited to, cities, townships, boroughs, school districts, and municipal authorities.
- H. **Intrastate Allocation Formula.** The formula for distributing funds from the County Abatement Fund contained in Exhibit 1.
- I. **Litigating Subdivisions.** Counties, County Subdivisions and District Attorneys that had existing litigation against the Companies as of July 21, 2021.

- J. **Non-Participating Subdivisions.** Counties and County Subdivisions with populations greater than 10,000 that have not chosen to participate in these Settlements.
- K. **Participating Subdivisions.** Counties, District Attorneys and County Subdivisions of more than 10,000 in population as established by the 2019 population estimate of the U.S. Bureau of Census that have agreed to participate in these settlements. The Participating Subdivisions are identified in Exhibit 5 to this order.
- L. **Pennsylvania’s Opioid Litigation.** The Coordinated Opioid Proceedings (CV-2017-08095) pending in the Delaware County Court of Common Pleas before the Hon. Barry C. Dozor, and any proceedings initiated by Litigating Subdivisions pending in *In re National Prescription Opiate Litig.* MDL No. 2804 (N.D. Ohio), pending before Hon. Dan Polster.
- M. **Population.** Whenever this Order refers to population, it refers to the 2019 estimate of the United States population by the U.S. Bureau of Census, except for purposes of calculating the Litigating Subdivision’s share, which uses 2020 Census figures.

- N. **Settlements.** The Distributors Settlement Agreement dated July 21, 2021 among the settling states, settling distributors and participating subdivisions; and the J&J Settlement Agreement dated July 21, 2021 among the settling states, participating subdivisions and J&J, for Covered Conduct by the Companies.
- O. **Other Settlement(s).** Any of the following pertaining to liability arising from the marketing, manufacturing, sale, promotion, distribution, prescribing or dispensing of opioids shall fall within the purview of this Order: a future settlement agreement entered into by OAG together with subdivisions, and District Attorneys, and any monetary amounts awarded as a result of such litigation by OAG together with subdivisions, and District Attorneys; or Court ordered distributions pursuant to a United States Bankruptcy Court approved plan for claims of the Commonwealth, its subdivisions and District Attorneys.
- P. **Single-county authorities (“SCAs”).** The agency designated under 4 PA. Code §§254.1 to 254.20 plan and coordinate drug and alcohol prevention, intervention and treatment services for a geographic area which may consist of one or more counties and to administer the provisions of such services funded

through the agency. Some Counties have agreements to coordinate the operation of a Single County Authority with other Counties either by having one County's SCA act for multiple counties or by retaining a vendor to perform such function for multiple counties. In either event, such organizations shall be considered an SCA for purposes of this Order.

Q. **Trust** – Pennsylvania Opioid Misuse and Addiction Abatement Trust.

IV. **PARTIES TO THIS ORDER**

- A. The Commonwealth, by and through the OAG.
- B. Participating Subdivisions.

V. **PENNSYLVANIA OPIOID MISUSE AND ADDICTION ABATEMENT TRUST (TRUST)**

- A. **Purpose.** The Pennsylvania Opioid Misuse and Addiction Abatement Trust shall have as its purpose to distribute Trust Funds obtained by the Commonwealth and its subdivisions from the Settlements and Other Settlements. The Trust shall receive Trust Funds, hold such funds until payment, and then

disburse such funds pursuant to the terms and conditions set forth herein.

B. Disposition of Trust Funds. The funds obtained and ultimately paid by the Trust shall be distributed to the Commonwealth and its Participating Subdivisions only for the purposes set forth in Exhibit E to the Settlements and the Trust shall review expenditures by subdivisions which receive Trust Funds to insure that such spending was consistent with Exhibit E. Exhibit E is incorporated into this Order by reference and all spending of funds allocated by this Order shall be consistent with the requirements of Exhibit E. The Trust shall also receive and distribute funds from Other Settlements pursuant to the terms of those Other Settlements.

C. Governance. The Trust shall be governed by a Board of Trustees consisting of the following 13 members:

1. Chairperson, appointed by the Governor. The Chairperson shall be non-voting, except in cases of a tie. The Chairperson may not be an individual qualified to serve under any category of state-level members. The Chairperson shall serve at the pleasure of the Governor.

2. A secretary of one of the Commonwealth's health and human services agencies, as appointed by the Governor.
The secretary may appoint a designee, who is an employee of the respective agency.
3. Four Legislative Member Trustees, with one trustee appointed by each:
 - a. The Speaker of the House;
 - b. The Minority Leader of the House;
 - c. The President Pro Tempore of the Senate; and
 - d. The Senate Minority Leader.
4. Seven Regional Trustees appointed by the following County or City Officials:
 - a. Mayor of the City of First Class;
 - b. The County Executive of the County Second Class;
 - c. County Commissioners or County Executives of the Counties in the Capital Region, defined as including the following 16 counties: Adams, Berks, Centre, Cumberland, Dauphin, Fulton,

Franklin, Huntingdon, Juniata, Lancaster,
Lebanon, Mifflin, Perry, Snyder, Union, and York;

- d. The County Commissioners or County Executives of the Northeastern Pennsylvania region, defined as including the following 18 counties: Bradford, Carbon, Clinton, Columbia, Lackawanna, Luzerne, Lycoming, Monroe, Montour, Northumberland, Pike, Potter, Schuylkill, Sullivan, Susquehanna, Tioga, Wayne, and Wyoming;
- e. The County Commissioners or County Executives of the Southeastern Pennsylvania region, defined as including the following 6 counties: Bucks, Chester, Delaware, Lehigh, Montgomery, and Northampton;
- f. The County Commissioners or County Executives of the Northwestern Pennsylvania, defined as including the following 13 counties: Armstrong, Cameron, Clarion, Clearfield, Crawford, Elk, Erie, Forest, Jefferson, Mercer, McKean, Venango, and Warren;

- g. The County Commissioners or County Executives of the Southwestern Pennsylvania, defined as including the following 12 counties: Beaver, Bedford, Blair, Butler, Cambria, Fayette, Greene, Indiana, Lawrence Somerset, Washington, and Westmoreland.

5. Appointment of Trustees

- a. The Chairperson shall be appointed by the Governor as soon as is practical following the final approval of this Order.
- b. The Trustee appointed by the Mayor of the City of the First Class shall be confirmed by a majority vote by the City Council of the City of the First Class within 30 days of final approval of this Order.
- c. The Trustee appointed by the County Executive of the County of the Second Class shall be appointed by the County Executive within 30 days of final approval of this Order.

- d. A Trustee appointed by the County Commissioners of the Five County Regions, under ¶(V)(B)(4)(c)-(g) shall be selected by a majority of votes from each County within each respective region. Each County shall have one vote for selecting the trustee for its respective region. In the event of a tie vote among the Counties in a region, the Chairperson shall select a Trustee from the pool of candidates from each region that received the highest number of equal votes. At the request of any county, the County Commissioners Association of Pennsylvania may provide assistance to facilitate the nomination and election of Trustees. These Regional Trustees shall be elected within 30 days of final approval of this Order.
- e. Subsequent Appointments to the Board of Trustees from the five regions shall be held in two-year intervals, beginning in 2025. The County with the largest population in each region shall be responsible for collecting nominations from each

County and preparing and distributing ballots in enough time to seat new Trustees, by July 1, 2025, if existing Trustees are not reelected. Counties in a region can retain an existing Trustee by unanimous consent without holding a new nomination and balloting process as long as the Trustee has not exceeded maximum term as described in ¶ V(B)(8)(b).

6. **Qualifications of Trustees**

Counties are encouraged to designate trustees from one or more of the following professional classifications.

- a. A County Commissioner, member of County Council or County Executive.
- b. SCA administrator or County Health Commissioner.
- c. Physician with specialized practice and training in the treatment of substance use disorder.
- d. Nurse with specialized practice and training the treatment of substance use.

- e. Certified peer support substance use disorder treatment provider/specialist.
- f. Licensed pharmacist.
- g. Emergency medical services provider.
- h. Re-entry specialist/service provider.
- i. Individual in recovery from substance use disorder.
- j. Parent or guardian of someone who has had opioid use disorder.
- k. A researcher with expertise in substance use from a college or university in the Commonwealth.

7. Residency:

- a. To qualify as a Regional Representative Trustee, an individual must reside in or have a principal place of business qualifying the individual for service on the Board of Trustees located in that region.

8. Terms:

- a. Legislative member trustees shall serve terms not exceeding two years, which shall expire at the

conclusion of each legislative session. Legislative member trustees may be re-appointed, with no limit on the number of times they may be re-appointed.

- b. Regional Representative Trustees, except for Trustees appointed in 2022, shall serve two-year terms and may be appointed three times consecutively. The term for Trustees appointed in 2022 shall continue until July 1, 2025. No individual shall serve more than ten years during the individual's lifetime as a Regional Trustee.
- c. A secretary of one of the Commonwealth's health and human services agencies or such secretary's designee shall serve a term of no more than eight years and may be replaced by the secretary at any time.
- d. In the event of a resignation or removal of a Trustee, the person appointing the Trustee shall appoint a replacement.

9. **Compensation:** Trustees shall serve as volunteers and shall receive no compensation for serving on the Board of Trustees. They shall be entitled to reasonable travel, lodging and subsistence expenses when attending meetings of the Board of Trustees, which shall be paid from the monies allocated for the Trust's management set forth in ¶IV(C)(9).

D. Operations

1. The Board of Trustees shall meet as frequently as the Chairperson determines is necessary to complete its work. During such meetings, the Trustees shall appoint a financial institution licensed by the United States Office of the Comptroller of the Currency to invest all funds received only in securities fully guaranteed by the Government of the United States of America and which shall have a maturity date of no more than one year.
2. Except for the year 2022, by September 1 of each year, The Board of Trustees shall notify each County and each Litigating Subdivision of the amounts each will receive

out of the County Abatement and Litigating Subdivision Accounts. In the year 2022, that notification shall occur 30 days before distribution of the funds allocated under this Order.

3. Except for the year 2022, by November 15 of each year, in order for funds to be paid from the County Abatement Account, each County or the Health Department of a city of the First Class shall submit to the Trust the certification attached as Exhibit 2 and list the payees and respective addresses to which the County Abatement Check shall be sent. Multiple Counties and the Health Department of the city of the First Class, County Subdivisions and District Attorneys may file joint certifications for some or all of the funds allocated to them. A joint certification shall designate the amount to be paid out of the joint applicants' allocation and the name and address of the payee.
4. Except for the year 2022, by November 15 of each year, in order for funds to be distributed from the Litigating Subdivision Account, each Litigating Subdivision shall

submit to the Trust the certification attached as Exhibit 3 and list the payees and respective addresses to which the County Abatement Check shall be sent in accordance with ¶ (VII)(B). Multiple Litigating Subdivisions may file joint certifications for some or all of the funds allocated to them.

5. In the year 2022, certifications shall be filed consistent with the terms of subparagraphs 2 3, and 4 above within 60 days of entry of this Order.
6. Except for the year 2022, the Board of Trustees shall pay the funds it holds in trust less the minimum amount needed to maintain its account for holding such funds on or about of June 15 of each year for funds to distributed to the Commonwealth Account, and on or about December 15 of each year for funds to be distributed from the County Abatement and Litigating Subdivision Accounts.
7. In the year 2022, the Trust shall distribute the funds it receives within 60 days of receipt in accordance with the allocations under (II)(A)(1).

8. The Trust Funds designated to the Commonwealth Account shall be distributed from the Trust to the Commonwealth's Opioid Settlement Restricted Account.
9. The Board of Trustees may use up to 1% of the Trust funds to retain such persons or firms to manage the investment, and distributions.
10. All funds must be spent within 18 months of receipt by the recipient unless a Subdivision elects to use such funds for a multi-year capital project in accordance with Exhibit E of Settlements.
11. Each County or the Health Department of the city of the First Class shall submit a report to the Board of Trustees by March 15 beginning in the year 2023 year, showing the actual expenditures of such funds and the amount of funds received but not spent by the close of the previous calendar year. Funds should be spent equitably across the County in a way that most effectively abates the effects of the Opioid misuse and addiction within the judgment of the County Commissioners, County Executive and County Council. The Board of Trustees

shall set the requirements of such reporting, with input from qualified academic researchers.

12. A Quorum of seven trustees shall be necessary to conduct business of the Board of Trustees.
13. The Board of Trustees may adopt any other operating procedures it deems fit, so long as such procedures are consistent with this Order and all applicable laws.

VI. RESPONSIBILITIES OF THE TRUST

- A. The Trust shall have the following responsibilities:
 1. Receiving, maintaining, and investing funds until final disbursement of all settlement funds.
 2. Reviewing certifications in accordance with the terms specified by this document.
 3. Reviewing annual reports on spending to ensure compliance with the settlement terms.
 4. Disbursing the Annual Shares to the Commonwealth Account, County Abatement Account and Litigating Subdivision Account for that year.
 5. Otherwise establishing its own operating rules and procedures.

6. Preparing an annual report and accounting for the authorizing court which shall be made public and undertaking all other reporting requirements consistent with the terms of the settlements.

VII. ALLOCATION

- A. The funds designated for the County Abatement Account shall be distributed directly to the Counties or such other organization designated by the County. Each County shall receive its share consistent with the methodology outlined in Exhibit 1, with each county receiving a minimum of \$1 million total combined from the Settlements. To the extent the Commonwealth receives less than the full amounts available under the Settlements, the Trustees shall reduce each County's share (identified in Exhibit 1) *pro rata*.
- B. The funds designated for the Litigating Subdivision Account shall be distributed directly to participating Litigating Subdivisions based on population according to the 2020 Census, with the following caveats:
 1. 25% of the Litigating Subdivision Account will be set aside for entities that have done substantial work to

advance litigation against the settling defendants. In the case of the Distributors and J&J Settlements, those entities are Delaware County, Carbon County, and the City of Philadelphia.

2. Allocation for District Attorneys' shares will be based on half of the population of the county they serve.
3. Allocation of Litigating Special Districts' shares will be based on 10% of the population that they serve.
4. The following minimum payments will apply, subject to availability of funds:
 - a. For subdivisions with populations smaller than 10,000: \$80,000 from the Distributors Settlement Agreement and \$20,000 from the J&J Settlement Agreement.
 - b. For subdivisions with populations between 10,000 and 50,000: \$200,000 from the Distributors Settlement Agreement and \$50,000 from the J&J Settlement Agreement.
 - c. For subdivisions with populations between 50,001 and 100,000: \$400,000 from the Distributors

Settlement Agreement and \$100,000 from the J&J Settlement Agreement.

d. For subdivisions with populations larger than 100,000: \$800,000 from Distributors Settlement Agreement and \$200,000 from the J&J Settlement Agreement.

C. If Incentive A described in the Settlements is achieved, funds to be paid through the Litigating Subdivision Account will be paid out over the following three years' worth of payments.

D. If a District Attorney does not participate in these settlements, then the Trust Funds that would have been paid to such non-participating District Attorney will be paid to those District Attorneys that agree to participate in these settlements. The amount for a non-participating District Attorney being reallocated to participating District Attorneys shall be allocated in the same manner as funds are allocated in ¶ VII B(2) above.

VIII. MISCELLANEOUS

A. The Trust shall be dissolved upon final disbursement of all funds from all covered settlements.

- B. The Trust shall not pay any Participating Subdivision in any year in which the subdivision fails to submit a certification by December 10 of the year in which the Trust has funds to distribute.
- C. The proceedings and meetings of this Trust shall be governed by the Sunshine Act, 65 Pa. C. S §§ 701-16.
- D. All Trustees and any person employed by the Trust shall be governed by and shall be considered Public Officials within the meaning of the Public Official and Employee Ethics Act, 65 Pa. C. S. §§ 1101-13 since such person will be either a Public Official or Public employee or appointed by Public Officials or appointed pursuant to this Order to perform a function administering a trust to protect the public interest.
- E. This Court shall maintain jurisdiction over the Trust and the funds it holds until the Trust is dissolved.
- F. Any beneficiary of the Trust may petition the Court to allow spending on an item of abatement not contained in Exhibit E, provided such spending is deemed by the Court to reduce incidence or rate of opioid addiction and overdose deaths in the Commonwealth.

- G. Any beneficiary of the Trust may file a complaint with the Board of Trustees if the beneficiary disputes an action by the Trust with regard to that beneficiary.
1. Such Complaint shall be in writing and the Board of Trustees must respond in writing to such beneficiary within 60 days of receipt of such complaint.
 2. If the Board of Trustees' response does not resolve the beneficiary's complaint, the beneficiary may petition this Court for a resolution of its complaint.
 3. No beneficiary shall have standing to challenge another beneficiary's use of funds under this Order or the Trust action with regard to another beneficiary.
 4. Nothing in this Order shall change the requirements for SCAs under Federal or State laws.

IX. ATTORNEYS' FEES:

A. The methodology for the payment of Attorneys' Fees and expenses for the Distributors and Johnson & Johnson settlements only is set forth in Exhibit 4.

X. FORFEITURE, PENALTIES AND INCENTIVES.

A. County Abatement Account Penalties and Incentives:

1. Any County which agrees to participate in these Settlements will receive 70% of the amount allocated to it under the Intrastate Allocation Formula (“Allocated Share”). Such County may receive up to an additional 30% of its allocated share by securing the participation of its constituent subdivisions as participants in these Settlements as follows:

- a. Any County where all the Litigating Subdivisions and all subdivisions with a population greater than 30,000 agree to participate in the Settlements will receive an additional 20% of its allocated share.
- b. Any County where all the non-litigating subdivisions with a population greater than 10,000 agree to participate in the Settlements will receive an additional 10% of its allocated share.
- c. A subdivision which agrees to participate in either the Distributors Settlement Agreement or the J&J Settlement Agreement, but not the other, the

payment to the County shall have its allocation reduced by 150% the pro-rata size of the Settlement to which the subdivision did not agree.

- d. Funds withheld pursuant to Section X-Forfeitures, Penalties and Incentives will be re-allocated to the Commonwealth Account.
- e. For the avoidance of doubt, nothing in this section shall apply to or authorize any penalty for a Participating Subdivision's failure or inability to secure the participation of a District Attorney within its jurisdiction.

B. Litigating Subdivision Penalties

- 1. Any Litigating Subdivision that fails to agree to participate in the Settlements shall receive nothing from the County Abatement Account, the Litigating Subdivision Account and shall not have any portion of its Attorney Fees or Costs paid out of the Settlements.

C. Inappropriate Spending and Failure to File Reports.

1. If a County or Litigating Subdivision spends some or all of its funds in a way that is not in accordance with the requirements of Exhibit E to the Settlements or fails to provide the Board of Trustees with an annual report of its spending, the Board of Trustee shall withhold the next year's payments to such County or Subdivision. The County or Litigating Subdivision will have up to 3 months to cure the misspending or provide the annual report of its spending and receive its full payment. If it is not cured after 3 months, the Board of Trustees may reduce or withhold payments going forward, and re-allocate the difference to the Commonwealth Account.

So Ordered:



J.

Exhibit 1

County shares have been determined based on a 4-metric formula, with the following weights:

- **All Overdose Deaths** – Number of all overdose deaths 2015-2019 as compiled by the CDC (40%)
- **OUD-Related Hospitalizations** – Number of unique individuals hospitalized for any OUD-related diseases 2016-2019 as compiled by the Pennsylvania Health Care Cost Containment Council (PHC4) via OpenDataPA (20%)
- **EMS Naloxone Administrations** -- Number of naloxone doses administered by Emergency Medical Services 2018-2020 as compiled by the Pennsylvania Department of Health (20%)
- **Adjusted MME** - Total Morphine Milligram Equivalents (MME) of prescription opioids dispensed by county 2006-2014 per ARCOS data, adjusted by the ratio of OUD prevalence rate or the ratio of overdose deaths, whichever was higher per county (20%)

The resulting County shares are as follows:

County	4-Metric (MME Adjusted) Formula (unequal weights: (40-20-20-20)
Adams	0.344%
Allegheny	11.524%
Armstrong	0.606%

Beaver	1.274%
Bedford	0.192%
Berks	1.891%
Blair	0.807%
Bradford	0.225%
Bucks	5.803%
Butler	1.369%
Cambria	1.587%
Cameron	0.072%
Carbon	0.644%
Centre	0.250%
Chester	2.230%
Clarion	0.147%
Clearfield	0.299%
Clinton	0.105%
Columbia	0.328%
Crawford	0.671%
Cumberland	1.048%
Dauphin	1.611%
Delaware	6.468%
Elk	0.168%
Erie	2.051%

Fayette	1.348%
Forest	0.049%
Franklin	0.514%
Fulton	0.077%
Greene	0.205%
Huntingdon	0.179%
Indiana	0.683%
Jefferson	0.189%
Juniata	0.061%
Lackawanna	1.393%
Lancaster	2.266%
Lawrence	0.989%
Lebanon	0.603%
Lehigh	2.107%
Luzerne	3.282%
Lycoming	0.642%
McKean	0.180%
Mercer	0.931%
Mifflin	0.173%
Monroe	0.827%
Montgomery	5.047%
Montour	0.143%

Northampton	1.686%
Northumberland	0.578%
Perry	0.231%
Philadelphia	23.146%
Pike	0.283%
Potter	0.067%
Schuylkill	0.986%
Snyder	0.109%
Somerset	0.425%
Sullivan	0.050%
Susquehanna	0.166%
Tioga	0.149%
Union	0.082%
Venango	0.336%
Warren	0.139%
Washington	1.647%
Wayne	0.315%
Westmoreland	3.227%
Wyoming	0.204%
York	2.571%

Exhibit 2

[Year]

[County of _____][City of Philadelphia] Abatement Account
Certification

I, _____, on behalf of [the County of _____] [City of Philadelphia] hereby Certify that the County Abatement Funds received by [the County of _____] [the City of Philadelphia] will be used in a manner consistent with the Abatement uses described in Exhibit E of the Settlements and that the payee(s) and their addresses and the amount indicated are:

Payee:

Address:

Amount:

Date: County of _____

By: _____

Title: _____

[Date: City of Philadelphia

By: _____

Title: _____

Exhibit 3

[Year]

[County of _____][City of Philadelphia]Litigating Subdivision
Certification

I, _____, on behalf of [the County of _____] [City of Philadelphia] hereby certify that the Litigating Subdivision Funds received by [the County of _____] [the City of Philadelphia] will be used in a manner consistent with the Abatement uses described in Exhibit E of the Settlements and that the payee(s) and their addresses and the amount indicated are:

Payee:

Address:

Amount:

Date: County of _____

By: _____

Title: _____

[Date: City of Philadelphia

By: _____

Title: _____]

Exhibit 4

**IN THE COURT OF COMMON PLEAS OF
DELAWARE COUNTY, PENNSYLVANIA
CIVIL DIVISION**

DELAWARE COUNTY, PENNSYLVANIA,	:	
	:	
Plaintiff,	:	COURT OF COMMON PLEAS
	:	DELAWARE COUNTY, PA
v.	:	CIVIL ACTION – LAW
	:	
PURDUE PHARMA L.P., et al.,	:	No. 2017-008095
	:	
Defendants.	:	
	:	
	:	

**[PROPOSED] ORDER GRANTING PLAINTIFFS’ MOTION TO
ESTABLISH A PENNSYLVANIA OPIOID FEE FUND AND
APPOINT A SPECIAL MASTER TO DETERMINE AND DISBURSE
ATTORNEYS’ FEES AND ESTABLISH A PROCEDURE FOR
REIMBURSING COUNSEL FOR DOCUMENTED EXPENSES AND
COSTS**

AND NOW, this _____ day of April 2022, after review of the Motion to Establish a Pennsylvania Opioid Fee Fund and Appoint a Special Master to Determine and Disburse Fees and Establish a Procedure for Reimbursing Counsel for Documented Expenses and Costs filed by Track 1 Plaintiffs Delaware County and Carbon County, Pennsylvania, it is hereby **ORDERED** and **DECREED** as follows:

This Attorney Fee and Cost Order is entered into as an adjunct to the Pennsylvania Opioids Trust and Allocation Order entered in [INSERT CASE CAPTION] (the “Trust”) to which this is Exhibit 4. Attached as exhibits to this Order are the National Janssen Settlement Agreement (Exhibit A), and the National Distributor Settlement Agreement (Exhibit B) referred to as “Settlement Agreements” hereafter. Unless otherwise set forth herein, defined terms in this Order shall have the same meanings in the National J&J and Distributor Settlement Agreements and the Trust.

I. Establishment of Pennsylvania Opioid Fee Fund

Consistent with the terms of the Trust and pursuant to 42 P.S. § 2503(8), an attorney fee fund shall be established and held in a separate account subject to the jurisdiction of this Court, to be held and disbursed in a manner consistent with the terms of this Order (the “Pennsylvania Opioid Fee Fund”).

A. Amount and Timing of Payments to Establish the Fund

The amount of the Pennsylvania Opioid Fee Fund shall not exceed 6.6% of all base and incentive payments governmental entities will receive

in the Commonwealth of Pennsylvania over the course of all payment years under the J&J and Distributor Settlement Agreements.

With respect to the timing, although the payment terms from the Settling Defendants extend over an eighteen year period, if the Commonwealth of Pennsylvania is eligible for “Incentive A” under the J&J and Distributor Settlements, the Pennsylvania Opioid Fee Fund shall be funded in its entirety in the first three years, less any amounts required for suspensions, offsets or reductions pursuant to Sections IV, VII and XII of the Settlement Agreements. Under the following payment schedule: 50% paid in 2022; 25% paid in 2023; and 25% in paid in 2024.¹ Alternatively, if the Commonwealth of Pennsylvania is not eligible for Incentive A, the Pennsylvania Opioid Fee Fund shall be funded in its entirety in the first five years, less any amount required for suspension, offsets and reductions provided for in the Settlement Agreements, with equal payments made in each settlement payment year, understanding that if Incentive A is not

¹ For illustrative purposes only, if the Commonwealth will receive \$1,000,000,000 in payments from the settlements, with Incentive A, the Pennsylvania Opioid Fee Fund will receive \$66,000,000 total, with \$33,000,000 paid in payment year one, \$16,500,000 paid in payment year two, and \$16,500,000 paid in payment year three.

achieved, participation levels in the Commonwealth may increase in subsequent years, which may result in an increase in the overall funds to the Commonwealth and a corresponding increase of the Pennsylvania Opioid Fee Fund, causing some fluctuation in the amount of the payment each year such that each payment is not equal.²

Attorneys' fees and expenses awarded by the Special Master under Sections III, IV, and V of this Order shall be payable from the Pennsylvania Opioid Fee Fund upon award, notwithstanding the existence of any objections thereto, or potential for appeal therefrom, or collateral attack on the Trust or the Settlements or any part thereof. Any counsel who pursues an objection, appeal, or collateral attack on the Trust or the Settlements or any part thereof shall be ineligible for any attorneys' fees or expenses awarded by the Special Master until Sections III, IV, or V of this Order until such objection, appeal, or collateral attack is resolved. Counsel shall only have

² For illustrative purposes only, if the Commonwealth will receive \$900,000,000 in payments from the settlements, without Incentive A, the Pennsylvania Opioid Fee Fund will receive \$59,400,000 total, with \$11,880,000 paid in payment year one, \$11,880,000 paid in payment year two, \$11,880,000 paid in payment year three, \$11,880,000 paid in payment year four, and \$11,880,000 paid in payment year five, but if participation levels increase, the payment amounts in payment years three to five may increase and not be equal.

standing to object to its own fee or cost award, and shall not have standing to object to a fee or cost award of any other counsel.

In addition, in the event an objection, appeal, or collateral attack is unsuccessful, any such counsel:

a) Must reimburse all fees and costs of the Special Master incurred in defending any award made under this Order;

b) Pay to Pennsylvania Opioid Fee Fund interest on the amount objected to at the rate of 5%;

c) Pay the fees of the Trust and the Pennsylvania Office of Attorney General incurred during the objection, appeal or collateral attack.

To ensure that payments to counsel do not exceed 6.6% of all base and incentive payments governmental entities will receive in the Commonwealth of Pennsylvania over the course of all payment years under the J&J and Distributor Settlement Agreements, in the event that any counsel appeals its own award of attorneys' fees or costs, the funds in dispute only shall be held in the Pennsylvania Opioid Fee Fund pending the appeal. If the appeal is resolved in favor of counsel who filed the appeal, those funds, together with any interest, shall be payable immediately upon decision by the highest court to which the award was appealed, and the time

to appeal or seek further review has expired. If the appeal is resolved against counsel who filed the appeal, the reserved funds, together with any interest, shall be distributed *pro rata* consistent with the Mathematical Formula for contingency fees described in Section IV.

As discussed in detail below, in order to be eligible to participate in the Pennsylvania Opioid Fee Fund, counsel must agree to waive enforcement of their fee contracts with respect to the Pennsylvania client(s) for whom they are seeking to recover fees. If the total population of the clients whose counsel do not agree to waive their fee agreements is between 10.01% to 25% of the total population of Participating Subdivisions (with the population of District Attorneys measured by half the population of the counties they serve), the amount of the Pennsylvania Opioid Fee Fund shall be reduced on a pro-rata basis, based on the percentage of the population of Participating Subdivisions represented by counsel who do not agree to waive their fee contracts.³ If counsel for 10% or fewer of Litigating Subdivisions (measured by population of the clients for whom counsel is not

³ For illustrative purposes only, if the Pennsylvania Opioid Fee Fund is to be funded at \$66,000,000, but 15% of the eligible clients, by population, do not agree to waive their contracts and participate in the fund, then the amount of the fund shall be reduced by \$9,900,000, for a total of \$56,100,000.

participating) do not agree to waive their fee, the amount of the Pennsylvania Opioid Fee Fund shall not be reduced. If counsel for greater than 25% of Litigating Subdivisions (measured by participation of the clients for whom counsel is not participating) do not agree to waive their fee, there will be no further reductions to the amount of the fund beyond those that occur for greater than 10% up to 25%.

B. The Pennsylvania Opioid Fee Fund Shall Be a Qualified Settlement Fund

The Pennsylvania Opioid Fee Fund shall constitute a single qualified settlement fund within the meaning of section 468B of the Internal Revenue Code of 1986, as amended, and Treasury Regulation Sections 1.468B-1, *et seq.* and will be disbursed consistent with the terms of this order, and will remain subject to the continuing and exclusive jurisdiction of this Court. The Fund will be an account where assets will be segregated from the general assets of the Defendant(s) and related persons or entities.

This Court has jurisdiction over this matter under Treas. Reg. § 1.468B-1(c)(1), which states in relevant part that a Qualified Settlement Fund “is established pursuant to an order of, or is approved by, the United

States, any state (including the District of Columbia), territory, possession, or political subdivision thereof, or any agency or instrumentality (including a court of law) of any of the foregoing and is subject to the continuing jurisdiction of that governmental authority.”

No bond shall be required and all amounts deposited in the Pennsylvania Opioid Fee Fund shall be invested conservatively in a manner designed to assure timely availability of funds, protection of principal and avoidance of concentration risk. All payments into the Pennsylvania Opioid Fee Fund, and any interest thereon, will be held until disbursed in a manner consistent with this Order. No distributions shall be made from the Pennsylvania Opioid Fee Fund except through the process established by this Order. No parties or their counsel shall be considered to be in constructive receipt, as determined under federal income tax principles, of any amounts held by the Pennsylvania Opioid Fee Fund.

II. Appointment of Special Master and Administrator

The Court hereby appoints, retired Magistrate Judge Joel Schneider as Special Master, to oversee and allocate the Pennsylvania Opioid Fee Fund,

and ARCHER Systems, LLC as Administrator to oversee administration and administrative costs of the Fund.

A. Special Master

Judge Schneider served as United States Magistrate Judge in the District of New Jersey for 14 years. During his tenure, he managed, settled, and decided thousands of cases in all aspects of civil litigation, including employment, civil rights, intellectual property, class/collective actions, products liability, contract, data breach, pharmaceutical, and other disputes. While on the bench, Judge Schneider developed a well-deserved reputation for effectively managing and settling complex and multi-party individual and class action cases, including three multidistrict litigations: Caterpillar Engine, Benicar and Valsartan. Specifically, Judge Schneider was recently appointed by the court to mediate the multi-billion dollar LTL/J&J bankruptcy litigation involving J&J's baby powder. He was largely responsible for resolving the fairly recent \$350 million Benicar settlement (approximately 8000 claimants) and finalizing the attorneys' fee allocation. Judge Schneider also presently acts as the Special Master in the Johnson & Johnson MDL talc litigation (38,000 cases) and the coordinated talc (mesothelioma) cases pending in New Jersey state court. Judge Schneider is currently Of Counsel in the Alternative Dispute Resolution

Practice Group at the law firm of Montgomery McCracken Walker & Rhoads LLP. Prior to his judicial appointment, he practiced in the tristate area for 26 years, where he specialized in complex civil litigation.

Judge Schneider was provided with a list of all Plaintiffs' counsel in these Coordinated Proceedings, and has advised he has no conflicts of interest with any of those counsel.

The Special Master shall be responsible for designing and implementing processes and procedures for the allocation of fees, costs, and expenses, consistent with the criteria set forth in this Order. To carry out these responsibilities, the Special Master may set deadlines for any submissions and hold hearings with all or any group of counsel without further consultation with the Court. The Special Master may also employ the services of assistants to act under his direction to accomplish the objectives set forth in this Order. Subject to review by this Court under an abuse of discretion standard, the Special Master shall have the sole authority for making decisions regarding allocations, disbursements, and payments from the Pennsylvania Opioid Fee Fund.

The Special Master may communicate *ex parte* with counsel when such communication is necessary: (a) to maintain confidentiality or a privilege related to specific information; (b) to ensure the efficient

administration and management and oversight of his responsibilities, including scheduling meetings, conferences, calls, or hearings; or (c) for other procedural, routine, or general non-substantive matters. Counsel shall not engage in *ex parte* communications with the Special Master regarding substantive matters.

The Special Master, and any assistant to whom he delegates any aspect of his responsibilities in this Order, including any third parties hired at the Special Master's direction, shall be immune from any liability resulting from any award made under this Order, or any action conducted pursuant to this Order as part of making any award. See *Binder v. Triangle Publications, Inc.*, 442 Pa. 319, 323, 275 A.2d 53, 56 (1971) (“All communications pertinent to any stage of a judicial proceeding are accorded an absolute privilege which cannot be destroyed by abuse.”).

The services of the Special Master and any assistants to whom he delegates any part of his duties under this Order, the Administrator, and any vendors and services they determine to be necessary and appropriate to conduct and complete their work, shall be paid or reimbursed from the Pennsylvania Opioid Fee Fund. The Court has been advised that the Special Master will bill his time at \$800/hour.

As a threshold step in the fee allocation process, the Special Master shall allocate fifty percent (50%) of the Pennsylvania Opioid Fee Fund to be used exclusively for the payment of Agreed Litigation Conduct Fees, and the remaining fifty percent (50%) to be used for contingency fee awards.

B. Administrator

The Administrator shall assist the Special Master and shall be responsible for making any necessary tax filings and payments of taxes, estimated taxes, and associated interest and penalties, if any, by the Pennsylvania Opioid Fee Fund. The Administrator shall be responsible for responding to any questions from, or audits regarding such taxes by, the Internal Revenue Service or any state or local tax authority, as well as questions from the Department of Labor. The Administrator shall also be responsible for complying with all tax information reporting and withholding requirements with respect to payments made by the Pennsylvania Opioid Fee Fund, as well as paying any associated interest and penalties. All such tax, interest, and penalty payments and all expenses and costs incurred in connection with taxation of the Pennsylvania Opioid Fee Fund (including, without limitation, expenses of tax attorneys and accountants) shall be paid from the Pennsylvania Opioid Fee Fund and shall be considered administrative costs. The Administrator will obtain a Federal

Taxpayer Identification Number for the Fund upon entry of an order by this Court establishing the Fund. The Administrator shall be authorized, upon final distribution of all monies paid into the Fund to take appropriate steps to wind down the Fund and thereafter be discharged from any further responsibility with respect to the Fund.

The Administrator and/or its attorneys shall be indemnified and held harmless against reasonable expenses, costs and fees (including attorney fees), judgment, awards, and liabilities of all kinds incurred by the Administrator from any and all claims made by any person or entity that attempts to assert a right of payment, reimbursement or garnishment against the Fund, except to the extent that it is finally determined by this Court that the Administrator and/or its attorneys was/were negligent or acted with willful misconduct in connection with the administration of this Fund.

The Administrator shall have the right to rely upon any affidavit, certificate, letter, notice, electronic mail or other document provided to the Administrator and in the Administrator's reasonable judgment believed to be genuine and sufficient. By way of example, this may include but is not limited to, wire instructions, IRS Form W-9, Plaintiffs' Counsel communications, payment instructions, fee deferment instructions, and the like.

The Court further appoints Huntington Bank as the custodian of the Fund who shall be responsible for any and all investment-related decisions, pursuant to the terms and conditions described in this Order.

III. Awards for Agreed Litigation Conduct Fees

With respect to the Agreed Litigation Conduct portion of the Pennsylvania Opioid Fee Fund, the Court hereby directs the Special Master to: (1) set up a process to receive requests for Agreed Litigation Conduct fees and set forth the required materials to be provided to the Special Master in connection with fee requests; (2) make a preliminary recommendation on the distribution of Agreed Litigation Conduct fees; and (3) address any requests to be heard regarding that preliminary recommendation by attorneys that sought common-benefit fees and then, make a final determination regarding the distribution of Agreed Litigation Conduct fees to qualifying counsel. This Court may review the final determination of an approved distribution of any Agreed Litigation Conduct funds. Any review by this Court of an award made by the Special Master concerning the Agreed Litigation Conduct funds shall be under an abuse of discretion standard.

Counsel shall only be eligible to apply for Agreed Litigation Conduct fees concerning work incurred in connection with the representation of

Pennsylvania clients who filed cases in the Unified Judicial System of Pennsylvania and executed Participation Agreements to participate in the J&J and Distributor Settlements. If counsel represents clients whose cases are pending in federal court in MDL 2804 or who do not participate in the J&J and Distributor Settlements, counsel may not be awarded Agreed Litigation Conduct fees for work incurred in connection with representation of those clients.

In making determinations for payments for Agreed Litigation Conduct fees, the Special Master shall give consideration to the factors set forth in *In re Baby Prod. Antitrust Litig.*, 708 F.3d 163, 176–77 (3d Cir. 2013) and *Maldonado v. Houstoun*, 256 F.3d 181, 187–88 (3d Cir. 2001).

As these have been applied and interpreted by courts with reference to Agreed Litigation Conduct and other court-awarded fees, as well as the following factors, which may be applied and given relative weight in the Special Master’s discretion:

- the applicant’s contemporaneously recorded time and labor dedicated to Pennsylvania Participating Subdivisions. Claimed “time” shall not be automatically accepted by the Special Master but shall be critically reviewed. Time and labor incurred by contract lawyers for document review shall not be

included in connection with any applicant's request for Agreed Litigation Conduct fees, but rather such time shall be submitted as an expense, for the actual cost of those services;

- the novelty, time, and complexity of the work performed for Pennsylvania Participating Subdivisions;
- the preclusion of other employment by the applicant due to time dedicated to Pennsylvania Participating Subdivisions;
- the "common benefit," if any alleged to have been conferred by the applicant with respect to the coordinated proceedings pending before this Court;
- the amount of the expenditures paid by the applicant which were necessary to prosecute the applicant's case(s);
- the experience, reputation, and ability of the applicant;
- the status of discovery in the cases primarily handled by the applicant in the coordinated proceedings pending before this Court;

- the nature of any work by the applicant on “bellwether” cases or cases that were similarly active in the coordinated proceedings pending before this Court;
- any pressure points successfully exerted by the applicant in cases against the Settling Defendants or any risk for Settling Defendants created by the applicant in cases against them in the coordinated proceedings pending before this Court;
- any risk for defendants created by applicants in cases against the Settling Defendants in the coordinated proceedings pending before this Court;
- successful and unsuccessful motion practice in cases worked on by the applicant in the coordinated proceedings pending before this Court;
- the date of filing of any cases filed by the applicant in the coordinated proceedings pending before this Court;
- the number and population of entities represented by the applicant and the fees that would have been awarded under the

extinguished contingent fee agreements with respect to the applicant's Pennsylvania Participating Subdivisions;

- whether the applicants' Pennsylvania Participating Subdivision clients brought claims against the Settling Defendants;
- whether the applicant has had a leadership role in the coordinated proceedings pending before this Court;
- whether the applicant has had a leadership role in any negotiations aimed at resolving the litigation in the coordinated proceedings pending before this Court; and
- any other factors that the Special Master finds to be appropriate to consider.

IV. Fee Awards Based on Contingent Fee Contracts

With respect to the contingent fee portion of the Pennsylvania Opioid Fee Fund, the Special Master is directed to establish and implement procedures for the distribution fees to compensate eligible counsel for work on behalf of Pennsylvania Participating Litigating Subdivisions, in lieu of enforcement of contingency fee contracts. As part of that process, counsel submitting fee petitions for each Participating Litigating Subdivision shall

represent they waive enforcement rights against the subdivision clients of all contracts entered into in conjunction with the representation of Pennsylvania clients for whom they are seeking to recover contingency fees, prior to applying for contingency fees from the Pennsylvania Opioid Fee Fund.

With respect to contingency fee awards from the Pennsylvania Opioid Fee Fund, any counsel who represents Pennsylvania clients who executed Participation Agreements to participate in the J&J and Distributor Settlements shall be eligible to apply for contingency fees, regardless of the jurisdiction where they filed their cases, provided they comply with the other requirements in this Attorney Fee and Expense Order.

Awards of contingency fees shall be made by applying a mathematical model identical or substantially similar to the Mathematical Model attached as part of Exhibit R to the National Settlement Agreements (see Distributor Settlement Agreement at pp. R-22 to R-25 (the “Mathematical Model”) to the Pennsylvania Participating Subdivisions that are part of the coordinated proceedings pending before this Court. Awards of contingency fees made by the Special Master shall be based exclusively on (1) the settlement amount that will be received by each participating Pennsylvania Litigating Subdivision, the terms of each participating Pennsylvania Litigating Subdivision’s contingency fee contract, and the filing date for each

participating Pennsylvania Litigating Subdivision. No other factors or subjective criteria may be used by the Special Master in calculating contingency fee awards. The Special Master is encouraged to work with counsel who developed the above referenced the Mathematical Model. The Special Master shall oversee the application of the Mathematical Model and resolve any questions or disputes concerning eligibility. The Special Master is empowered to hear disputes concerning and ensure the accuracy of the mathematical calculation. As to awards from the Contingency Fee Fund, there shall be no right of appeal.

V. Reimbursement of Costs and Expenses

Consistent with the terms of the Trust, counsel shall be reimbursed for documented costs and expenses incurred in connection with the representation of Pennsylvania clients who filed cases in the Unified Judicial System of Pennsylvania and whose clients executed Participation Agreements to participate in the J&J and Distributor Settlements.

Requests for costs and expenses from the Pennsylvania Opioid Fee Fund shall be submitted in two parts, which counsel must segregate in their applications. The first part shall be for all costs and expenses incurred in connection with the representation of Pennsylvania clients who filed cases in

the Unified Judicial System of Pennsylvania and executed Participation Agreements to participate in the J&J and Distributor Settlements, except for costs for document review by contract attorneys. Before submitting requests for costs and for these types of costs, counsel must first apply to the cost fund established in connection with the Distributor and J&J Settlements in the MDL. However, because the MDL cost fund may not make awards in time for the Special Master to take into account those awards in these proceedings, counsel may elect to submit a request for cost and expenses from the Pennsylvania Opioid Fee Fund while a request to the MDL cost fund remains pending. If counsel make this election, counsel shall certify that they will (1) report all amounts subsequently received from the MDL cost fund incurred in their representation of Pennsylvania clients who filed cases in the Unified Judicial System of Pennsylvania; and (2) immediately reimburse the Pennsylvania Opioid Fee Fund in any amount awarded by the MDL cost fund for expenses incurred in the representation of Pennsylvania clients who filed cases in the Unified Judicial System of Pennsylvania, plus accrued interest at the same net rate as is earned by the Pennsylvania Opioid Fee Fund. Counsel shall be reimbursed for these costs within a reasonably prompt time following the receipt of a request from counsel that complies with this Order.

The second part of counsel's request shall be for costs for document review by contract attorneys incurred in connection with the representation of Pennsylvania clients who filed cases in the Unified Judicial System of Pennsylvania and executed Participation Agreements to participate in the J&J and Distributor Settlements. Counsel are not required to apply to the cost fund established in connection with the Distributor and J&J Settlements in the MDL before submitting requests for these types of costs. Once counsel submits a request that complies with this Order, these costs shall be reimbursed in 2022.

To the extent that counsel are not fully reimbursed by the MDL Cost Fund for costs and expenses incurred the representation of Pennsylvania clients who filed cases in the Unified Judicial System of Pennsylvania and executed Participation Agreements to participate in the J&J and Distributor Settlements, counsel shall be reimbursed for such costs and expenses from the Pennsylvania Opioid Fee Fund.

To the extent the Special Master requires assistance to further the purpose of this Order, the Special Master is authorized to retain and utilize, under his supervision, accountants and/or other professionals and vendors, as necessary and appropriate, to assist in the administration and distribution of expenses.

VI. Miscellaneous

To prevent insolvency of the Pennsylvania Opioid Fee Fund, no award shall be made until all applications have been received and award amounts for each applicant are finalized.

SO ORDERED, this _____ day of _____,
2022.

BY THE COURT:

Hon. Barry C. Dozor

Exhibit 5

The participating subdivisions are identified below:

1. Abington Township, Montgomery County
2. Adams County
3. Adams Township, Butler County
4. Aliquippa City, Beaver County
5. Allegheny County
6. Allentown City, Lehigh County
7. Altoona City, Blair County
8. Amity Township, Berks County
9. Antrim Township, Franklin County
10. Armstrong County
11. Aston Township, Delaware County
12. Beaver County
13. Bedford County
14. Bensalem Township, Bucks County
15. Berks County
16. Berwick Borough, Columbia County
17. Bethel Park Municipality, Allegheny County
18. Bethlehem City, Lehigh County, Northampton County
19. Bethlehem Township, Northampton County
20. Blair County
21. Bloomsburg Town, Columbia County
22. Bradford County
23. Bristol Township, Bucks County
24. Buckingham Township, Bucks County
25. Bucks County
26. Butler City, Butler County
27. Butler County
28. Butler Township, Butler County
29. Caln Township, Chester County
30. Cambria County
31. Cameron County
32. Carbon County

33. Carlisle Borough, Cumberland County
34. Cecil Township, Washington County
35. Center Township, Beaver County
36. Centre County
37. Chambersburg Borough, Franklin County
38. Cheltenham Township, Montgomery County
39. Chester City, Delaware County
40. Chester County
41. Chestnuthill Township, Monroe County
42. Clarion County
43. Clearfield County
44. Clinton County
45. Coal Township, Northumberland County
46. Coatesville City, Chester County
47. College Township, Centre County
48. Columbia Borough, Lancaster County
49. Columbia County
50. Concord Township, Delaware County
51. Coolbaugh Township, Monroe County
52. Cranberry Township, Butler County
53. Crawford County
54. Cumberland County
55. Cumru Township, Berks County
56. Darby Borough, Delaware County
57. Dauphin County
58. Delaware County
59. Derry Township, Dauphin County
60. Derry Township, Westmoreland County
61. Dingman Township, Pike County
62. District Attorney Of Berks County
63. District Attorney Of Bucks County
64. District Attorney Of Chester County
65. District Attorney Of Clearfield County
66. District Attorney Of Dauphin County
67. District Attorney Of Delaware County

68. District Attorney Of Erie County
69. District Attorney Of Northampton County
70. District Attorney Of Westmoreland County
71. Douglass Township, Montgomery County
72. Dover Township, York County
73. Doylestown Township, Bucks County
74. Dunmore Borough, Lackawanna County
75. East Bradford Township, Chester County
76. East Cocalico Township, Lancaster County
77. East Goshen Township, Chester County
78. East Hempfield Township, Lancaster County
79. East Lampeter Township, Lancaster County
80. East Norriton Township, Montgomery County
81. East Pennsboro Township, Cumberland County
82. East Stroudsburg Borough, Monroe County
83. East Whiteland Township, Chester County
84. Easton City, Northampton County
85. Easttown Township, Chester County
86. Edwardsville Borough, Luzerne County
87. Elizabeth Township, Allegheny County
88. Elizabethtown Borough, Lancaster County
89. Elk County
90. Emmaus Borough, Lehigh County
91. Ephrata Borough, Lancaster County
92. Ephrata Township, Lancaster County
93. Erie City, Erie County
94. Erie County
95. Exeter Borough, Luzerne County
96. Exeter Township, Berks County
97. Fairview Township, Erie County
98. Fairview Township, Luzerne County
99. Fairview Township, York County
100. Falls Township, Bucks County
101. Fayette County
102. Ferguson Township, Centre County

103. Forest County
104. Forks Township, Northampton County
105. Forty Fort Borough, Luzerne County
106. Franconia Township, Montgomery County
107. Franklin County
108. Franklin Park Borough, Allegheny County
109. Fulton County
110. Greene County
111. Greene Township, Franklin County
112. Greensburg City, Westmoreland County
113. Guilford Township, Franklin County
114. Hamilton Township, Franklin County
115. Hampden Township, Cumberland County
116. Hanover Borough, York County
117. Hanover Township, Luzerne County
118. Hanover Township, Northampton County
119. Harborcreek Township, Erie County
120. Harrisburg City, Dauphin County
121. Hatfield Township, Montgomery County
122. Haverford Township, Delaware County
123. Hazleton City, Luzerne County
124. Hempfield Township, Westmoreland County
125. Hermitage City, Mercer County
126. Hilltown Township, Bucks County
127. Hopewell Township, Beaver County
128. Horsham Township, Montgomery County
129. Huntingdon County
130. Indiana Borough
131. Indiana County
132. Jefferson County
133. Jefferson Hills Borough, Allegheny County
134. Johnstown City, Cambria County
135. Juniata County
136. Kingston Borough, Luzerne County
137. Lackawanna County

138. Lancaster City, Lancaster County
139. Lancaster County
140. Lancaster Township, Lancaster County
141. Lansdale Borough, Montgomery County
142. Lansdowne Borough, Delaware County
143. Lawrence County
144. Lebanon City, Lebanon County
145. Lebanon County
146. Lehigh Township, Northampton County
147. Lehman Township, Pike County
148. Limerick Township, Montgomery County
149. Lock Haven City, Clinton County
150. Logan Township, Blair County
151. Lower Allen Township, Cumberland County
152. Lower Burrell City, Westmoreland County
153. Lower Macungie Township, Lehigh County
154. Lower Makefield Township, Bucks County
155. Lower Merion Township, Montgomery County
156. Lower Moreland Township, Montgomery County
157. Lower Paxton Township, Dauphin County
158. Lower Pottsgrove Township, Montgomery County
159. Lower Providence Township, Montgomery County
160. Lower Saucon Township, Northampton County
161. Lower Southampton Township, Bucks County
162. Loyalsock Township, Lycoming County
163. Luzerne County
164. Lycoming County
165. Mahoning Township, Carbon County
166. Manchester Township, York County
167. Manheim Township, Lancaster County
168. Manor Township, Lancaster County
169. Marple Township, Delaware County
170. Mccandless Township, Allegheny County
171. Mckean County
172. Mercer County

173. Middle Smithfield Township, Monroe County
174. Middletown Township, Bucks County
175. Middletown Township, Delaware County
176. Mifflin County
177. Milford Township, Bucks County
178. Millcreek Township, Erie County
179. Monroe County
180. Montgomery County
181. Montgomery Township, Montgomery County
182. Montour County
183. Morrisville Borough, Bucks County
184. Mount Joy Township, Lancaster County
185. Mount Lebanon Township, Allegheny County
186. Mount Pleasant Township, Westmoreland County
187. Muhlenberg Township, Berks County
188. Munhall Borough, Allegheny County
189. Murrysville Municipality, Westmoreland County
190. Nanticoke City, Luzerne County
191. Nether Providence Township, Delaware County
192. New Britain Township, Bucks County
193. New Castle City, Lawrence County
194. New Garden Township, Chester County
195. New Kensington City, Westmoreland County
196. Newberry Township, York County
197. Newtown Township, Bucks County
198. Newtown Township, Delaware County
199. Norristown Borough, Montgomery County
200. North Huntingdon Township, Westmoreland County
201. North Lebanon Township, Lebanon County
202. North Middleton Township, Cumberland County
203. North Strabane Township, Washington County
204. North Union Township, Fayette County
205. North Versailles Township, Allegheny County
206. North Whitehall Township, Lehigh County
207. Northampton County

208. Northampton Township, Bucks County
209. Northumberland County
210. Palmer Township, Northampton County
211. Patton Township, Centre County
212. Penn Hills Township, Allegheny County
213. Penn Township, Lancaster County
214. Penn Township, Westmoreland County
215. Penn Township, York County
216. Perry County
217. Peters Township, Washington County
218. Philadelphia City, Philadelphia
219. Philadelphia School District, Philadelphia County
220. Phoenixville Borough, Chester County
221. Pike County
222. Pine Township, Allegheny County
223. Pittsburgh City, Allegheny County
224. Plains Township, Luzerne County
225. Plumstead Township, Bucks County
226. Plymouth Township, Montgomery County
227. Pocono Township, Monroe County
228. Potter County
229. Pottstown Borough, Montgomery County
230. Pottsville City, Schuylkill County
231. Radnor Township, Delaware County
232. Rapho Township, Lancaster County
233. Reading City, Berks County
234. Richland Township, Bucks County
235. Richland Township, Cambria County
236. Ridley Township, Delaware County
237. Robinson Township, Allegheny County
238. Ross Township, Allegheny County
239. Rostraver Township, Westmoreland County
240. Salisbury Township, Lancaster County
241. Salisbury Township, Lehigh County
242. Sandy Township, Clearfield County

243. Schuylkill County
244. Scranton City, Lackawanna County
245. Sharon City, Mercer County
246. Silver Spring Township, Cumberland County
247. Snyder County
248. Somerset County
249. Somerset Township, Somerset County
250. South Lebanon Township, Lebanon County
251. South Middleton Township, Cumberland County
252. South Union Township, Fayette County
253. South Whitehall Township, Lehigh County
254. Southeastern Pennsylvania Transportation Authority,
255. Spring Garden Township, York County
256. Spring Township, Berks County
257. Springettsbury Township, York County
258. Springfield Township, Delaware County
259. Springfield Township, Montgomery County
260. St. Marys City, Elk County
261. State College Borough, Centre County
262. Stroud Township, Monroe County
263. Sugar Notch Borough, Luzerne County
264. Sullivan County, Sullivan County
265. Susquehanna County
266. Susquehanna Township, Dauphin County
267. Swatara Township, Dauphin County
268. Tioga County, Tioga County
269. Towamencin Township, Montgomery County
270. Tredyffrin Township, Chester County
271. Union County, Union County
272. Union Township, Lawrence County
273. Unity Township, Westmoreland County
274. Upper Allen Township, Cumberland County
275. Upper Chichester Township, Delaware County
276. Upper Darby Township, Delaware County
277. Upper Dublin Township, Montgomery County

278. Upper Gwynedd Township, Montgomery County
279. Upper Macungie Township, Lehigh County
280. Upper Merion Township, Montgomery County
281. Upper Moreland Township, Montgomery County
282. Upper Providence Township, Delaware County
283. Upper Providence Township, Montgomery County
284. Upper Southampton Township, Bucks County
285. Upper St Clair Township, Allegheny County
286. Upper Uwchlan Township, Chester County
287. Uwchlan Township, Chester County
288. Venango County
289. Wampum Borough, Lawrence County
290. Warminster Township, Bucks County
291. Warren County
292. Warrington Township, Bucks County
293. Warwick Township, Bucks County
294. Warwick Township, Lancaster County
295. Washington City, Washington County
296. Washington County
297. Washington Township, Franklin County
298. Wayne County
299. Waynesboro Borough, Franklin County
300. West Bradford Township, Chester County
301. West Chester Borough, Chester County
302. West Goshen Township, Chester County
303. West Hanover Township, Dauphin County
304. West Hempfield Township, Lancaster County
305. West Lampeter Township, Lancaster County
306. West Manchester Township, York County
307. West Mifflin Borough, Allegheny County
308. West Norriton Township, Montgomery County
309. West Pittston Borough, Luzerne County
310. West Whiteland Township, Chester County
311. Westmoreland County
312. Westtown Township, Chester County

313. White Township, Indiana County
314. Whitehall Borough, Allegheny County
315. Whitehall Township, Lehigh County
316. Whitmarsh Township, Montgomery County
317. Whitpain Township, Montgomery County
318. Wilkes Barre Township, Luzerne County
319. Wilkes-Barre City, Luzerne County
320. Williamsport City, Lycoming County
321. Willistown Township, Chester County
322. Windsor Township, York County
323. Worcester Township, Montgomery County
324. Wright Township, Luzerne County
325. Wyoming Borough, Luzerne County
326. Wyoming County
327. Wyomissing Borough, Berks County
328. Yeadon Borough, Delaware County
329. York City, York County
330. York County
331. York Township, York County

APPENDIX 2

“EXHIBIT E”

EXHIBIT E

List of Opioid Remediation Uses

Schedule A Core Strategies

States and Qualifying Block Grantees shall choose from among the abatement strategies listed in Schedule B. However, priority shall be given to the following core abatement strategies (“*Core Strategies*”).¹⁴

- A. **NALOXONE OR OTHER FDA-APPROVED DRUG TO REVERSE OPIOID OVERDOSES**
1. Expand training for first responders, schools, community support groups and families; and
 2. Increase distribution to individuals who are uninsured or whose insurance does not cover the needed service.
- B. **MEDICATION-ASSISTED TREATMENT (“MAT”) DISTRIBUTION AND OTHER OPIOID-RELATED TREATMENT**
1. Increase distribution of MAT to individuals who are uninsured or whose insurance does not cover the needed service;
 2. Provide education to school-based and youth-focused programs that discourage or prevent misuse;
 3. Provide MAT education and awareness training to healthcare providers, EMTs, law enforcement, and other first responders; and
 4. Provide treatment and recovery support services such as residential and inpatient treatment, intensive outpatient treatment, outpatient therapy or counseling, and recovery housing that allow or integrate medication and with other support services.

¹⁴ As used in this Schedule A, words like “expand,” “fund,” “provide” or the like shall not indicate a preference for new or existing programs.

C. **PREGNANT & POSTPARTUM WOMEN**

1. Expand Screening, Brief Intervention, and Referral to Treatment (“*SBIRT*”) services to non-Medicaid eligible or uninsured pregnant women;
2. Expand comprehensive evidence-based treatment and recovery services, including MAT, for women with co-occurring Opioid Use Disorder (“*OUD*”) and other Substance Use Disorder (“*SUD*”) /Mental Health disorders for uninsured individuals for up to 12 months postpartum; and
3. Provide comprehensive wrap-around services to individuals with OUD, including housing, transportation, job placement/training, and childcare.

D. **EXPANDING TREATMENT FOR NEONATAL ABSTINENCE SYNDROME (“*NAS*”)**

1. Expand comprehensive evidence-based and recovery support for NAS babies;
2. Expand services for better continuum of care with infant-need dyad; and
3. Expand long-term treatment and services for medical monitoring of NAS babies and their families.

E. **EXPANSION OF WARM HAND-OFF PROGRAMS AND RECOVERY SERVICES**

1. Expand services such as navigators and on-call teams to begin MAT in hospital emergency departments;
2. Expand warm hand-off services to transition to recovery services;
3. Broaden scope of recovery services to include co-occurring SUD or mental health conditions;
4. Provide comprehensive wrap-around services to individuals in recovery, including housing, transportation, job placement/training, and childcare; and
5. Hire additional social workers or other behavioral health workers to facilitate expansions above.

F. **TREATMENT FOR INCARCERATED POPULATION**

1. Provide evidence-based treatment and recovery support, including MAT for persons with OUD and co-occurring SUD/MH disorders within and transitioning out of the criminal justice system; and
2. Increase funding for jails to provide treatment to inmates with OUD.

G. **PREVENTION PROGRAMS**

1. Funding for media campaigns to prevent opioid use (similar to the FDA's "Real Cost" campaign to prevent youth from misusing tobacco);
2. Funding for evidence-based prevention programs in schools;
3. Funding for medical provider education and outreach regarding best prescribing practices for opioids consistent with the 2016 CDC guidelines, including providers at hospitals (academic detailing);
4. Funding for community drug disposal programs; and
5. Funding and training for first responders to participate in pre-arrest diversion programs, post-overdose response teams, or similar strategies that connect at-risk individuals to behavioral health services and supports.

H. **EXPANDING SYRINGE SERVICE PROGRAMS**

1. Provide comprehensive syringe services programs with more wrap-around services, including linkage to OUD treatment, access to sterile syringes and linkage to care and treatment of infectious diseases.

I. **EVIDENCE-BASED DATA COLLECTION AND RESEARCH ANALYZING THE EFFECTIVENESS OF THE ABATEMENT STRATEGIES WITHIN THE STATE**

Schedule B Approved Uses

Support treatment of Opioid Use Disorder (OUD) and any co-occurring Substance Use Disorder or Mental Health (SUD/MH) conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

PART ONE: TREATMENT

A. **TREAT OPIOID USE DISORDER (OUD)**

Support treatment of Opioid Use Disorder (“*OUD*”) and any co-occurring Substance Use Disorder or Mental Health (“*SUD/MH*”) conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, those that:¹⁵

1. Expand availability of treatment for OUD and any co-occurring SUD/MH conditions, including all forms of Medication-Assisted Treatment (“*MAT*”) approved by the U.S. Food and Drug Administration.
2. Support and reimburse evidence-based services that adhere to the American Society of Addiction Medicine (“*ASAM*”) continuum of care for OUD and any co-occurring SUD/MH conditions.
3. Expand telehealth to increase access to treatment for OUD and any co-occurring SUD/MH conditions, including *MAT*, as well as counseling, psychiatric support, and other treatment and recovery support services.
4. Improve oversight of Opioid Treatment Programs (“*OTPs*”) to assure evidence-based or evidence-informed practices such as adequate methadone dosing and low threshold approaches to treatment.
5. Support mobile intervention, treatment, and recovery services, offered by qualified professionals and service providers, such as peer recovery coaches, for persons with OUD and any co-occurring SUD/MH conditions and for persons who have experienced an opioid overdose.
6. Provide treatment of trauma for individuals with OUD (*e.g.*, violence, sexual assault, human trafficking, or adverse childhood experiences) and family members (*e.g.*, surviving family members after an overdose or overdose fatality), and training of health care personnel to identify and address such trauma.
7. Support evidence-based withdrawal management services for people with OUD and any co-occurring mental health conditions.

¹⁵ As used in this Schedule B, words like “expand,” “fund,” “provide” or the like shall not indicate a preference for new or existing programs.

8. Provide training on MAT for health care providers, first responders, students, or other supporting professionals, such as peer recovery coaches or recovery outreach specialists, including telementoring to assist community-based providers in rural or underserved areas.
9. Support workforce development for addiction professionals who work with persons with OUD and any co-occurring SUD/MH conditions.
10. Offer fellowships for addiction medicine specialists for direct patient care, instructors, and clinical research for treatments.
11. Offer scholarships and supports for behavioral health practitioners or workers involved in addressing OUD and any co-occurring SUD/MH or mental health conditions, including, but not limited to, training, scholarships, fellowships, loan repayment programs, or other incentives for providers to work in rural or underserved areas.
12. Provide funding and training for clinicians to obtain a waiver under the federal Drug Addiction Treatment Act of 2000 (“*DATA 2000*”) to prescribe MAT for OUD, and provide technical assistance and professional support to clinicians who have obtained a DATA 2000 waiver.
13. Disseminate of web-based training curricula, such as the American Academy of Addiction Psychiatry’s Provider Clinical Support Service–Opioids web-based training curriculum and motivational interviewing.
14. Develop and disseminate new curricula, such as the American Academy of Addiction Psychiatry’s Provider Clinical Support Service for Medication–Assisted Treatment.

B. SUPPORT PEOPLE IN TREATMENT AND RECOVERY

Support people in recovery from OUD and any co-occurring SUD/MH conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the programs or strategies that:

1. Provide comprehensive wrap-around services to individuals with OUD and any co-occurring SUD/MH conditions, including housing, transportation, education, job placement, job training, or childcare.
2. Provide the full continuum of care of treatment and recovery services for OUD and any co-occurring SUD/MH conditions, including supportive housing, peer support services and counseling, community navigators, case management, and connections to community-based services.
3. Provide counseling, peer-support, recovery case management and residential treatment with access to medications for those who need it to persons with OUD and any co-occurring SUD/MH conditions.

4. Provide access to housing for people with OUD and any co-occurring SUD/MH conditions, including supportive housing, recovery housing, housing assistance programs, training for housing providers, or recovery housing programs that allow or integrate FDA-approved medication with other support services.
5. Provide community support services, including social and legal services, to assist in deinstitutionalizing persons with OUD and any co-occurring SUD/MH conditions.
6. Support or expand peer-recovery centers, which may include support groups, social events, computer access, or other services for persons with OUD and any co-occurring SUD/MH conditions.
7. Provide or support transportation to treatment or recovery programs or services for persons with OUD and any co-occurring SUD/MH conditions.
8. Provide employment training or educational services for persons in treatment for or recovery from OUD and any co-occurring SUD/MH conditions.
9. Identify successful recovery programs such as physician, pilot, and college recovery programs, and provide support and technical assistance to increase the number and capacity of high-quality programs to help those in recovery.
10. Engage non-profits, faith-based communities, and community coalitions to support people in treatment and recovery and to support family members in their efforts to support the person with OUD in the family.
11. Provide training and development of procedures for government staff to appropriately interact and provide social and other services to individuals with or in recovery from OUD, including reducing stigma.
12. Support stigma reduction efforts regarding treatment and support for persons with OUD, including reducing the stigma on effective treatment.
13. Create or support culturally appropriate services and programs for persons with OUD and any co-occurring SUD/MH conditions, including new Americans.
14. Create and/or support recovery high schools.
15. Hire or train behavioral health workers to provide or expand any of the services or supports listed above.

**C. CONNECT PEOPLE WHO NEED HELP TO THE HELP THEY NEED
(CONNECTIONS TO CARE)**

Provide connections to care for people who have—or are at risk of developing—OUD and any co-occurring SUD/MH conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, those that:

1. Ensure that health care providers are screening for OUD and other risk factors and know how to appropriately counsel and treat (or refer if necessary) a patient for OUD treatment.
2. Fund SBIRT programs to reduce the transition from use to disorders, including SBIRT services to pregnant women who are uninsured or not eligible for Medicaid.
3. Provide training and long-term implementation of SBIRT in key systems (health, schools, colleges, criminal justice, and probation), with a focus on youth and young adults when transition from misuse to opioid disorder is common.
4. Purchase automated versions of SBIRT and support ongoing costs of the technology.
5. Expand services such as navigators and on-call teams to begin MAT in hospital emergency departments.
6. Provide training for emergency room personnel treating opioid overdose patients on post-discharge planning, including community referrals for MAT, recovery case management or support services.
7. Support hospital programs that transition persons with OUD and any co-occurring SUD/MH conditions, or persons who have experienced an opioid overdose, into clinically appropriate follow-up care through a bridge clinic or similar approach.
8. Support crisis stabilization centers that serve as an alternative to hospital emergency departments for persons with OUD and any co-occurring SUD/MH conditions or persons that have experienced an opioid overdose.
9. Support the work of Emergency Medical Systems, including peer support specialists, to connect individuals to treatment or other appropriate services following an opioid overdose or other opioid-related adverse event.
10. Provide funding for peer support specialists or recovery coaches in emergency departments, detox facilities, recovery centers, recovery housing, or similar settings; offer services, supports, or connections to care to persons with OUD and any co-occurring SUD/MH conditions or to persons who have experienced an opioid overdose.
11. Expand warm hand-off services to transition to recovery services.
12. Create or support school-based contacts that parents can engage with to seek immediate treatment services for their child; and support prevention, intervention, treatment, and recovery programs focused on young people.
13. Develop and support best practices on addressing OUD in the workplace.

14. Support assistance programs for health care providers with OUD.
15. Engage non-profits and the faith community as a system to support outreach for treatment.
16. Support centralized call centers that provide information and connections to appropriate services and supports for persons with OUD and any co-occurring SUD/MH conditions.

D. ADDRESS THE NEEDS OF CRIMINAL JUSTICE-INVOLVED PERSONS

Address the needs of persons with OUD and any co-occurring SUD/MH conditions who are involved in, are at risk of becoming involved in, or are transitioning out of the criminal justice system through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, those that:

1. Support pre-arrest or pre-arraignment diversion and deflection strategies for persons with OUD and any co-occurring SUD/MH conditions, including established strategies such as:
 1. Self-referral strategies such as the Angel Programs or the Police Assisted Addiction Recovery Initiative (“*PAARP*”);
 2. Active outreach strategies such as the Drug Abuse Response Team (“*DART*”) model;
 3. “Naloxone Plus” strategies, which work to ensure that individuals who have received naloxone to reverse the effects of an overdose are then linked to treatment programs or other appropriate services;
 4. Officer prevention strategies, such as the Law Enforcement Assisted Diversion (“*LEAD*”) model;
 5. Officer intervention strategies such as the Leon County, Florida Adult Civil Citation Network or the Chicago Westside Narcotics Diversion to Treatment Initiative; or
 6. Co-responder and/or alternative responder models to address OUD-related 911 calls with greater SUD expertise.
2. Support pre-trial services that connect individuals with OUD and any co-occurring SUD/MH conditions to evidence-informed treatment, including MAT, and related services.
3. Support treatment and recovery courts that provide evidence-based options for persons with OUD and any co-occurring SUD/MH conditions.

4. Provide evidence-informed treatment, including MAT, recovery support, harm reduction, or other appropriate services to individuals with OUD and any co-occurring SUD/MH conditions who are incarcerated in jail or prison.
5. Provide evidence-informed treatment, including MAT, recovery support, harm reduction, or other appropriate services to individuals with OUD and any co-occurring SUD/MH conditions who are leaving jail or prison or have recently left jail or prison, are on probation or parole, are under community corrections supervision, or are in re-entry programs or facilities.
6. Support critical time interventions (“*CTP*”), particularly for individuals living with dual-diagnosis OUD/serious mental illness, and services for individuals who face immediate risks and service needs and risks upon release from correctional settings.
7. Provide training on best practices for addressing the needs of criminal justice-involved persons with OUD and any co-occurring SUD/MH conditions to law enforcement, correctional, or judicial personnel or to providers of treatment, recovery, harm reduction, case management, or other services offered in connection with any of the strategies described in this section.

E. ADDRESS THE NEEDS OF PREGNANT OR PARENTING WOMEN AND THEIR FAMILIES, INCLUDING BABIES WITH NEONATAL ABSTINENCE SYNDROME

Address the needs of pregnant or parenting women with OUD and any co-occurring SUD/MH conditions, and the needs of their families, including babies with neonatal abstinence syndrome (“*NAS*”), through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, those that:

1. Support evidence-based or evidence-informed treatment, including MAT, recovery services and supports, and prevention services for pregnant women—or women who could become pregnant—who have OUD and any co-occurring SUD/MH conditions, and other measures to educate and provide support to families affected by Neonatal Abstinence Syndrome.
2. Expand comprehensive evidence-based treatment and recovery services, including MAT, for uninsured women with OUD and any co-occurring SUD/MH conditions for up to 12 months postpartum.
3. Provide training for obstetricians or other healthcare personnel who work with pregnant women and their families regarding treatment of OUD and any co-occurring SUD/MH conditions.
4. Expand comprehensive evidence-based treatment and recovery support for NAS babies; expand services for better continuum of care with infant-need dyad; and expand long-term treatment and services for medical monitoring of NAS babies and their families.

5. Provide training to health care providers who work with pregnant or parenting women on best practices for compliance with federal requirements that children born with NAS get referred to appropriate services and receive a plan of safe care.
6. Provide child and family supports for parenting women with OUD and any co-occurring SUD/MH conditions.
7. Provide enhanced family support and child care services for parents with OUD and any co-occurring SUD/MH conditions.
8. Provide enhanced support for children and family members suffering trauma as a result of addiction in the family; and offer trauma-informed behavioral health treatment for adverse childhood events.
9. Offer home-based wrap-around services to persons with OUD and any co-occurring SUD/MH conditions, including, but not limited to, parent skills training.
10. Provide support for Children’s Services—Fund additional positions and services, including supportive housing and other residential services, relating to children being removed from the home and/or placed in foster care due to custodial opioid use.

PART TWO: PREVENTION

F. PREVENT OVER-PRESCRIBING AND ENSURE APPROPRIATE PRESCRIBING AND DISPENSING OF OPIOIDS

Support efforts to prevent over-prescribing and ensure appropriate prescribing and dispensing of opioids through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Funding medical provider education and outreach regarding best prescribing practices for opioids consistent with the Guidelines for Prescribing Opioids for Chronic Pain from the U.S. Centers for Disease Control and Prevention, including providers at hospitals (academic detailing).
2. Training for health care providers regarding safe and responsible opioid prescribing, dosing, and tapering patients off opioids.
3. Continuing Medical Education (CME) on appropriate prescribing of opioids.
4. Providing Support for non-opioid pain treatment alternatives, including training providers to offer or refer to multi-modal, evidence-informed treatment of pain.
5. Supporting enhancements or improvements to Prescription Drug Monitoring Programs (“*PDMPs*”), including, but not limited to, improvements that:

1. Increase the number of prescribers using PDMPs;
2. Improve point-of-care decision-making by increasing the quantity, quality, or format of data available to prescribers using PDMPs, by improving the interface that prescribers use to access PDMP data, or both; or
3. Enable states to use PDMP data in support of surveillance or intervention strategies, including MAT referrals and follow-up for individuals identified within PDMP data as likely to experience OUD in a manner that complies with all relevant privacy and security laws and rules.
6. Ensuring PDMPs incorporate available overdose/naloxone deployment data, including the United States Department of Transportation’s Emergency Medical Technician overdose database in a manner that complies with all relevant privacy and security laws and rules.
7. Increasing electronic prescribing to prevent diversion or forgery.
8. Educating dispensers on appropriate opioid dispensing.

G. PREVENT MISUSE OF OPIOIDS

Support efforts to discourage or prevent misuse of opioids through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Funding media campaigns to prevent opioid misuse.
2. Corrective advertising or affirmative public education campaigns based on evidence.
3. Public education relating to drug disposal.
4. Drug take-back disposal or destruction programs.
5. Funding community anti-drug coalitions that engage in drug prevention efforts.
6. Supporting community coalitions in implementing evidence-informed prevention, such as reduced social access and physical access, stigma reduction—including staffing, educational campaigns, support for people in treatment or recovery, or training of coalitions in evidence-informed implementation, including the Strategic Prevention Framework developed by the U.S. Substance Abuse and Mental Health Services Administration (“SAMHSA”).
7. Engaging non-profits and faith-based communities as systems to support prevention.

8. Funding evidence-based prevention programs in schools or evidence-informed school and community education programs and campaigns for students, families, school employees, school athletic programs, parent-teacher and student associations, and others.
9. School-based or youth-focused programs or strategies that have demonstrated effectiveness in preventing drug misuse and seem likely to be effective in preventing the uptake and use of opioids.
10. Create or support community-based education or intervention services for families, youth, and adolescents at risk for OUD and any co-occurring SUD/MH conditions.
11. Support evidence-informed programs or curricula to address mental health needs of young people who may be at risk of misusing opioids or other drugs, including emotional modulation and resilience skills.
12. Support greater access to mental health services and supports for young people, including services and supports provided by school nurses, behavioral health workers or other school staff, to address mental health needs in young people that (when not properly addressed) increase the risk of opioid or another drug misuse.

H. PREVENT OVERDOSE DEATHS AND OTHER HARMS (HARM REDUCTION)

Support efforts to prevent or reduce overdose deaths or other opioid-related harms through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Increased availability and distribution of naloxone and other drugs that treat overdoses for first responders, overdose patients, individuals with OUD and their friends and family members, schools, community navigators and outreach workers, persons being released from jail or prison, or other members of the general public.
2. Public health entities providing free naloxone to anyone in the community.
3. Training and education regarding naloxone and other drugs that treat overdoses for first responders, overdose patients, patients taking opioids, families, schools, community support groups, and other members of the general public.
4. Enabling school nurses and other school staff to respond to opioid overdoses, and provide them with naloxone, training, and support.
5. Expanding, improving, or developing data tracking software and applications for overdoses/naloxone revivals.
6. Public education relating to emergency responses to overdoses.

7. Public education relating to immunity and Good Samaritan laws.
8. Educating first responders regarding the existence and operation of immunity and Good Samaritan laws.
9. Syringe service programs and other evidence-informed programs to reduce harms associated with intravenous drug use, including supplies, staffing, space, peer support services, referrals to treatment, fentanyl checking, connections to care, and the full range of harm reduction and treatment services provided by these programs.
10. Expanding access to testing and treatment for infectious diseases such as HIV and Hepatitis C resulting from intravenous opioid use.
11. Supporting mobile units that offer or provide referrals to harm reduction services, treatment, recovery supports, health care, or other appropriate services to persons that use opioids or persons with OUD and any co-occurring SUD/MH conditions.
12. Providing training in harm reduction strategies to health care providers, students, peer recovery coaches, recovery outreach specialists, or other professionals that provide care to persons who use opioids or persons with OUD and any co-occurring SUD/MH conditions.
13. Supporting screening for fentanyl in routine clinical toxicology testing.

PART THREE: OTHER STRATEGIES

I. FIRST RESPONDERS

In addition to items in section C, D and H relating to first responders, support the following:

1. Education of law enforcement or other first responders regarding appropriate practices and precautions when dealing with fentanyl or other drugs.
2. Provision of wellness and support services for first responders and others who experience secondary trauma associated with opioid-related emergency events.

J. LEADERSHIP, PLANNING AND COORDINATION

Support efforts to provide leadership, planning, coordination, facilitations, training and technical assistance to abate the opioid epidemic through activities, programs, or strategies that may include, but are not limited to, the following:

1. Statewide, regional, local or community regional planning to identify root causes of addiction and overdose, goals for reducing harms related to the opioid epidemic, and areas and populations with the greatest needs for treatment

intervention services, and to support training and technical assistance and other strategies to abate the opioid epidemic described in this opioid abatement strategy list.

2. A dashboard to (a) share reports, recommendations, or plans to spend opioid settlement funds; (b) to show how opioid settlement funds have been spent; (c) to report program or strategy outcomes; or (d) to track, share or visualize key opioid- or health-related indicators and supports as identified through collaborative statewide, regional, local or community processes.
3. Invest in infrastructure or staffing at government or not-for-profit agencies to support collaborative, cross-system coordination with the purpose of preventing overprescribing, opioid misuse, or opioid overdoses, treating those with OUD and any co-occurring SUD/MH conditions, supporting them in treatment or recovery, connecting them to care, or implementing other strategies to abate the opioid epidemic described in this opioid abatement strategy list.
4. Provide resources to staff government oversight and management of opioid abatement programs.

K. TRAINING

In addition to the training referred to throughout this document, support training to abate the opioid epidemic through activities, programs, or strategies that may include, but are not limited to, those that:

1. Provide funding for staff training or networking programs and services to improve the capability of government, community, and not-for-profit entities to abate the opioid crisis.
2. Support infrastructure and staffing for collaborative cross-system coordination to prevent opioid misuse, prevent overdoses, and treat those with OUD and any co-occurring SUD/MH conditions, or implement other strategies to abate the opioid epidemic described in this opioid abatement strategy list (*e.g.*, health care, primary care, pharmacies, PDMPs, etc.).

L. RESEARCH

Support opioid abatement research that may include, but is not limited to, the following:

1. Monitoring, surveillance, data collection and evaluation of programs and strategies described in this opioid abatement strategy list.
2. Research non-opioid treatment of chronic pain.
3. Research on improved service delivery for modalities such as SBIRT that demonstrate promising but mixed results in populations vulnerable to opioid use disorders.

4. Research on novel harm reduction and prevention efforts such as the provision of fentanyl test strips.
5. Research on innovative supply-side enforcement efforts such as improved detection of mail-based delivery of synthetic opioids.
6. Expanded research on swift/certain/fair models to reduce and deter opioid misuse within criminal justice populations that build upon promising approaches used to address other substances (*e.g.*, Hawaii HOPE and Dakota 24/7).
7. Epidemiological surveillance of OUD-related behaviors in critical populations, including individuals entering the criminal justice system, including, but not limited to approaches modeled on the Arrestee Drug Abuse Monitoring (“*ADAM*”) system.
8. Qualitative and quantitative research regarding public health risks and harm reduction opportunities within illicit drug markets, including surveys of market participants who sell or distribute illicit opioids.
9. Geospatial analysis of access barriers to MAT and their association with treatment engagement and treatment outcomes.

APPENDIX 3

Board of Trustees March 1, 2023 Meeting Minutes

Minutes of the Special Meeting of March 1, 2023
Pennsylvania Opioid Misuse and Addiction Abatement Trust

Attendees:

- Jim Donahue, III - PA OAG
- Neil Mara - PA OAG
- Tyler Ritchie - PA OAG
- Brianna Trout - PA OAG
- Tom Vankirk - Chair
- Shea Madden – Trustee
- Robert Postal - Trustee
- Kevin Boozel - Trustee
- Erin Dalton - Trustee
- Steve Jasper - Trustee
- Nathan McClellan - Representative for Senator Tartaglione

RESOLUTION

1. Pursuant to Paragraph V D (11) Trust, of the Order creating the Pennsylvania Opioid Abuse and Abatement Trust, “Each County or Health Department of the City of the First Class” shall submit to the Board of Trustees by March 15th, beginning in the year 2023 showing actual expenditures... of the previous calendar year.
2. Because funds from the Distributors and Johnson and Johnson were not fully distributed to the Counties until mid to late-December 2022, most counties have not spent any such funds during the calendar year 2022.
3. Therefore, be it resolved that the Trustees of the Pennsylvania Opioid Abuse and Abatement Trust hereby waive the requirement that each county or Health Department of the City of the First class make a report of expenditures on March 15, 2023 as required by Paragraph V D (11). Such reports shall be due March 15, 2024 for the period of September 1, 2022 to December 31, 2023.

**March 1, 2023, Special Meeting Pennsylvania Opioid Misuse and Addiction
Abatement Trust at 1:30p.m.**

The special meeting was called to review a proposed resolution to waive the requirement that each county or Health Department of the City of the First class make a report of expenditures on March 15, 2023, as required by Paragraph V D (11) of Pennsylvania's Trust Order, and instead require the same entities make a report of expenditures for the period from September 1, 2022 through December 31, 2023, by March 15, 2024.

Chair VanKirk thanked everyone for attending the Special Meeting. The Special Meeting was needed in order to provide notice to subdivisions that the subdivisions' reporting requirement is waived. Chair VanKirk noted that Nathan McClellan could serve as a proxy for Senator Tartaglione, as Senator Tartaglione had previously voted in favor of this resolution.

Quorum was achieved.

Chair VanKirk would entertain a motion to pass the Board's Resolution Waiving 2023 Trust Reporting Requirements.

Commissioner Boozel moved to pass the Resolution.

Commissioner Postal seconded the motion.

Chair VanKirk asked if there was any discussion regarding the motion. Commissioner Boozel asked for the reasoning behind the Resolutions rejection by a fellow Trustee. Chair VanKirk explained that no reason was given.

Chair VanKirk asked for a vote on the motion. It passed unanimously.

Chair VanKirk deemed the resolution passed and effective immediately. Chair VanKirk thanked everyone for their attendance, apologized for the short notice, and dismissed the meeting.

APPENDIX 4

Board of Trustees February 8, 2024 Meeting Minutes

Pennsylvania Opioid Misuse and Addiction Abatement Trust
Public Meeting of February 8th, 2024, 2:00 - 3:30PM
222 Chestnut Street, Harrisburg, PA, Room 211C
<https://us02web.zoom.us/j/81574002276>

MINUTES

Board of Trustee Attendees (10):

- Chair Thomas VanKirk (In person)
- Commissioner Kevin Boozel (Zoom)
- Erin Dalton (Zoom)
- Commissioner Gene DiGirolamo (Zoom)
- Representative Jim Gregory (Zoom)
- Steve Jasper (Zoom)
- Shea Madden (In person)
- Commissioner Robert Postal (Zoom)
- Senator Greg Rothman (Zoom)
- Senator Christine Tartaglione (Zoom)

Board of Trustees Not Attending (3):

- Secretary Latika Davis-Jones
- Representative Mark Rozzi
- Dr. J. Jean Wright II

Other Attendees:

- Jayson Wolfgang, Buchanan Ingersoll & Rooney (In person)
- Jordan Yeagley, Buchanan Ingersoll & Rooney (In person)
- Lisa Ritter (Maher Duessel)
- Dennis Scanlon, Penn State University (In person)
- Glenn Sterner, Penn State University (In person)
- Neil Mara, Office of Attorney General (Zoom)
- Tyler Ritchie, Office of Attorney General (Zoom)
- Mike Sage, CCAP (In person)
- Heather Hiester, CCAP (In person)
- Kimberly Ade, CCAP (In person)

Announcements:

- Welcome to members of public attending in person and on Zoom.
- The Board of Trustees held an Executive Session immediately prior to the public meeting for the purpose of receiving litigation updates, legal and tax advice.

- This meeting has been duly advertised as a public meeting in accordance with the Sunshine Act and is therefore open to the public as observers.
- Participation in the meeting was limited to Trustees and representatives from their offices and guests from the Trust's advisors and partners.
- The meeting is being recorded and will be placed on the Trust's website.
- A quorum of Trustees is present at the meeting.

Approval of Prior Meeting Minutes

Minutes from the November 30, 2023 public meeting were circulated in advance and approved unanimously by Trustees in attendance.

Report from Lisa Ritter/Maher Duessel and CCAP Concerning Administrative Expenses Incurred and Total Distributions Made in 2023

Lisa Ritter presented the findings of Maher Duessel, which determined that Trust income is not taxable but federal returns should be filed for 2022 and 2023. It is possible that a late fee may be assessed as a result of the late filing of the Trust's 2022 federal statement; additional information will be included along with the filing for 2022 in an effort to avoid any potential penalty.

A cash basis income/expense statement was prepared for January 1, 2023-December 31, 2023. The Trust received investment income from Wilmington Trust of \$2,030,378 and interest income from M&T Bank of \$1,965. The Trust received settlement as follows from Distributors - \$45,599,278; J&J - \$25,705,389; and Mallinckrodt - \$15,278,845. Total income for the Trust was \$88,615,855.

There were a series of administrative expenses for calendar year 2023 that included: Wilmington Trust fees of \$13,845 and M&T Bank fees of \$265. There was legal expense for Right-to-Know Law appeals of \$117,516; general legal advice was \$147,049. There were distributions to the Commonwealth of \$10,021,311. Distributions were made to the fee fund of \$11,515,941 and distributions to Participating Subdivisions of \$56,787,426. The Trust's net income for year ended December 31, 2023, totaled \$10,012,502. That income will not be taxable.

Per Chair VanKirk, CCAP, Maher Duessel and Penn State administrative expenses were paid in January of 2024, so they were not included in the report. The Trust will strive to ensure that all administrative expenses will be paid solely from the interest earned on the Trust funds, not settlement monies, if possible. Also, the Trust will try to obtain information from other States as to their approximate administrative expenses.

There were approximately 8-10 Right-to-Know Law appeals, including extensive briefing, the outcome of which is that the Trust is not subject to the Right-to-Know Law.

Resolution to Authorize Maher Duessel to Prepare and File Tax Returns

Chair VanKirk presented the following resolution for approval:

Resolved, that the Board of Trustees of the Pennsylvania Opioid Misuse and Addiction Abatement Trust hereby authorizes Maher Duessel to file any necessary tax returns on behalf of the Trust, drafts of which will be shared with Trustees in advance; and further, that Tom VanKirk as Chair of the Board of Trustees is authorized to sign such returns on behalf of the Trust.

Commissioner Boozel made a motion to approve the resolution as presented. Senator Tartaglione seconded the motion. The motion was approved unanimously by Trustees in attendance.

Report from Attorney General's Office Regarding Status of Wave 2 Settlements

Tyler Ritchie, Office of Attorney General, provided an update on the status of Wave 2 settlements noting that the settlements are in the process of being finalized. The Office of Attorney General is working with opposing counsel for the settling defendants to finalize the consent judgments and anticipate filing them with the Commonwealth Court in the near future. After filing with the Commonwealth Court, the OAG will await approval and, once obtained, copies of that approval will be sent to the National Administrators, BrownGreer. After BrownGreer obtains proof that the consent judgments were entered, funds will be sent from the National Trust to the Pennsylvania Trust. Overall, the OAG estimates \$570 million over the next 15 years for Wave 2; this is subject to change depending on factors such as the District Attorney litigation and participation figures for Wave 2. Further, the OAG will remain in communication with the Trust regarding any updates to the timeline of these settlements as well as the total amount.

Walmart's settlement, if approved by the Commonwealth Court, will largely be paid in one lump sum payment (about \$90 million) with smaller payments to occur at the end of the settlement term.

There was a concern voiced by some Trustees that, given the large sum of money from Walmart in one year, more time should be granted, beyond 18 months, to spend Walmart settlement monies without having to ask for an extension of time. The Chair requested the OAG, via its drafting of the Commonwealth Court order for Walmart, seek more time for the expenditure of the Walmart settlement funds, so Counties have more time to spend the money. It is anticipated that the Trust will distribute the funds so that the Counties who are receiving the money can earn interest and use that to offset administrative expenses.

Tyler Ritchie confirmed that the additional time regarding the Walmart settlement funds has been added to the proposed Commonwealth Court order for Walmart.

Report from Penn State/Temple/Pitt Regarding Status of Payees’ Opioid Spending Report Due on March 15, 2024

Dennis Scanlon of Penn State University represented the group (Penn State/Pitt/Temple) that created a reporting tool that all payees will use to respond with information on how settlement funds were spent or committed and how it relates to appropriate uses under Exhibit E. Over the last 8 months the group has developed this electronic, online reporting tool for the Trust. They developed the tool to make it user friendly and conducted demonstrations and webinars, to which all recipients were invited. Information about the tool, a memo that outlines the need to report, instructions, and a link to a webinar video about the tool are on the Trust website.

The current reporting period covers funds received August 1, 2022-December 31, 2023. There will be subsequent reporting periods. Information about the money disbursed to the payee will be confirmed in addition to demographics and attestations that the funds used for each program were done according to the settlement. Each recipient is asked to report on opioid remediation activities/efforts and how much has been spent on each program, along with the name of program, contract/entity running the program, money spent to date, and money budgeted for future use. Additionally, for each program, the recipient must select a specific checkbox that matches Exhibit E, including Schedules A and B thereto, and provide details related to specific uses of funds per the settlement requirements.

The deadline for reporting is March 15th. Once submitted, the Penn State/Pitt/Temple group will do a quality check of the data provided, while the Trust will review the expenditures for compliance with Exhibit E, per the settlement.

The Penn State/Pitt/Temple group is also working with the Trust on how to present the data to the public. To date, the group has had 30 Payees that have used the tool to some extent – 5 submitted completed responses; 10 provided some level of detail but are working on completion; 15 engaged with the tool. There are still a number that have not used the tool; however, they have until March 15th to submit.

Discussion of Trust Review Process for Reports filed by March 15

Chair VanKirk stated that the Trust’s responsibility, in addition to making sure that the money is distributed, is to then review how the money was spent and ensure such expenditures were in accordance with Exhibit E. For the Counties that have submitted so far, one county included 29 separate programs listed in its report. It is anticipated that this will be in line with the volume of what other Counties may report with some being considerably more. Given the workload of the Trust, in reviewing all 67 counties reporting in detail along with conducting inquiries, the Chair proposed dividing the County reviews into 3 working groups with 4 Trustees assigned to each group, apportioning reports in a way that each working group would review reports reflecting approximately equal population numbers. Commissioners will not review their own County reports. In the case of General Assembly members, they may be assigned to Counties that they may represent, subject to strict confidentiality. Members of the General Assembly will not discuss their assigned report(s) with individual County representatives until the Trust has the opportunity to review and act on

recommendations from the working groups. It was proposed that Chair VanKirk would serve on each working group, along with certain advisory members including CCAP and counsel for the Trust.

Each working group will be responsible for reporting their recommendations to the full Board of Trustees at a public meeting. The working groups will not take votes, only make recommendations. If the working groups have additional questions for the County regarding its expenditure of funds, the working group is responsible for addressing those questions to the County, through CCAP, and providing a final recommendation to the Board. The full Board will then render a final decision in an open public meeting subject to a vote by the entire Board of Trustees. The meetings of the working groups will not be open to the public, which the Trust believes is permissible under the Sunshine Act. Chair VanKirk presented the following resolution for approval:

RESOLVED, that, the Board of Trustees of the Pennsylvania Opioid Misuse and Addiction Abatement Trust hereby authorizes the Chair of the Board to establish three working groups of four (4) Trustees each to review essentially equal numbers of the annual reports submitted by recipients of Trust funds pursuant to Section V.D.11 of the Order of the Commonwealth Court entered July 12, 2022. The Chair, a representative of the County Commissioners Association of Pennsylvania and counsel for the Trust will serve as advisory members of each working group.

Each working group will review the reports of expenditures of Trust funds and make recommendations to the full Board of Trustees regarding compliance with Exhibit E, appended to the Order of the Commonwealth Court entered July 12, 2022.

The working groups will not have any authority to take official action but will submit their recommendations to be reviewed and acted upon by the full Board of Trustees at a public meeting.

Shea Madden made a motion to approve the resolution as presented. Commissioner Postal seconded the motion. The motion was approved unanimously with no further discussion by Trustees in attendance.

Members of each working group and the Counties being reviewed will be available on the Trust website.

Discussion of Trust Review Process for Reports Filed by March 15, 2023

Chair Tom Vankirk stated that, after reviewing initial reporting, there is concern that funds are not being spent in a timely fashion as required by the Trust Order. He stated that this is not surprising, as a significant amount of the money was not received by the Counties until late December 2022. They have until June 30, 2024 to spend those funds, with reporting being required by the Trust by March 15. Penn State suggested that the Trust could receive more information if a second reporting period was required. This would provide a fuller view of the expenditure of funds received 18 months prior to June.

Chair VanKirk proposed implementing a second reporting deadline of September 15th and making it mandatory for, at least, 2024. The Chair will review the Trust Order, since an amended Order will be submitted to the Commonwealth Court. If additional language needs to be included, Chair VanKirk will discuss the same with the Office of Attorney General. The second reporting date will be reviewed in the future to make sure it is not overly burdensome on the Counties or the Trust.

Chair VanKirk presented the following resolution for approval:

Resolved, that a second reporting requirement be approved by the Trust for all monies received prior to June 30th of the year in which the report is due. Such additional reporting will be due by September 15th, subject to authorizing language in the amended order and future review and adjustment by the Board of Trustees.

Senator Tartaglione made a motion to approve. Commissioner DiGirolamo seconded the motion. The motion was approved unanimously by Trustees in attendance.

Discussion of Operating Procedure for Responding to Inquiries from Outside Third Parties

Chair VanKirk reported that the Trust received inquiries from outside third parties (not Trust fund recipients). For example, in recent months there have been numerous inquiries from sources outside of the Commonwealth from organizations that are not associated with the Trust in any way. These inquiries have generally related to how Pennsylvania is spending its money and other questions related to the distribution of funds. Although the Trust wants to be transparent, these organizations are often conducting their own research and not serving any legitimate purpose for the Trust or the public in Pennsylvania. Moreover, such inquiries require the Trust to expend its limited resources providing information to individuals or entities who do not receive Trust funds and who otherwise have no role under the Trust Order.

Chair VanKirk presented the following resolution for approval:

Resolved, that, the Board of Trustees of the Pennsylvania Opioid Misuse and Addiction Abatement Trust hereby authorizes its administrator, the County Commissioners Association of Pennsylvania, to respond to requests for information submitted by outside third parties (e.g., those who do not receive Trust funds pursuant to or otherwise have a role under the Trust Order) by referring them to the Trust's website and public meetings of the Board of Trustees. No further comment(s) should be provided beyond such information.

Senator Tartaglione made a motion to approve the resolution as presented. Shea Madden seconded the motion. The motion was approved unanimously by Trustees in attendance.

Discussion of Transparency of Opioid Spending Filings

The Trust intends to post, after any necessary approvals in a public meeting(s), how Trust funds were spent by the Counties and others so that members of the public can view that information. The public

has a right to know and will likely be pleased with the spending, and the Trust plans to be transparent by sharing that information at the appropriate time.

New Business

No new business was brought forth to the Trust.

Chair Vankirk adjourned the meeting at 3:20 pm.

Reminder of Upcoming Meetings:

- May 2, 2024
- June 20, 2024

APPENDIX 5

Board of Trustees June 20, 2024 Meeting Minutes

Pennsylvania Opioid Misuse and Addiction Abatement Trust
Public Meeting of June 20, 2024 | 9:15AM
Harrisburg University

MINUTES

Board of Trustee Attendees (12):

- Chair Tom VanKirk (In person)
- Shea Madden (In person)
- Commissioner Kevin Boozel (In person)
- Tumar Alexander (In person)
- Secretary Latika Davis-Jones (In person)
- Commissioner Robert Postal (Zoom)
- Senator Christine Tartaglione (Zoom)
- Senator Greg Rothman (Zoom)
- Steve Jasper (Zoom)
- Representative Jim Struzzi (Zoom)
- Commissioner Gene DiGirolamo (Zoom)
- Erin Dalton (Zoom)

Board of Trustees Not Attending (1):

- Representative Mark Rozzi

Other Attendees:

- Jayson Wolfgang, Buchanan Ingersoll & Rooney (In person)
- Jordan Yeagley, Buchanan Ingersoll & Rooney (In person)
- Lisa Ritter, Maher Duessel (In person)
- Heather Hiester, CCAP (In person)
- Briana Anderson, CCAP (In person)
- Amy Yeung, Penn State University (Zoom)
- Neil Mara, Office of Attorney General (Zoom)
- Tyler Ritchie, Office of Attorney General (Zoom)

Announcements

- Welcome to members of the public attending both in person and on Zoom.
- The Board of Trustees held an Executive Session immediately prior to the public meeting for the purpose of receiving litigation updates, as well as legal and tax advice. Participation in the executive session was limited to Trustees and their representatives, and guests from the Trust's advisors and partners.
- This meeting has been duly advertised as a public meeting in accordance with the Sunshine Act and is therefore open to the public as observers.
- Participation in the meeting is limited to Trustees, representatives from their offices and guests from the Trust's advisors and partners.
- The meeting was recorded and will be posted on the Trust's website.
- Tumar Alexander is the newly appointed Trustee from Philadelphia, replacing Dr. H Jean Wright II.
- Representative Jim Struzzi is the newly appointed Trustee from the House Republican Caucus, replacing Representative Craig Williams.
- A quorum of Trustees was present at the meeting.

Approval of Prior Meeting Minutes

Minutes from the public meeting held on May 2, 2024, were circulated in advance. Senator Greg Rothman requested the minutes be amended to reflect his vote of "no" on Allegheny County's Syringe Services Program; otherwise, he voted "yea." Chair Tom VanKirk indicated that he would entertain a motion to approve the minutes. A motion to approve the minutes, as amended, was made by Commissioner Kevin Boozel and seconded by Tumar Alexander. There was no further discussion, and the minutes were approved unanimously by the Trustees in attendance.

Report from Attorney General's Office Regarding Status of Wave 2 Settlements

Tyler Ritchie, Office of the Attorney General (OAG), provided an update on the Wave 2 settlements. He reported that estimated allocations for the Wave 2 settlements were sent to all Participating Subdivisions. While these estimates may change, the OAG is committed to securing the maximum amount entitled under the settlement agreements for Pennsylvania.

The OAG also noted that the Commonwealth Court has approved the Wave 2 settlements, but final details are still being addressed by the national administrators. Currently, the Wave 2 funds remain in escrow with the national administrators. Jayson Wolfgang, Buchanan, clarified that, along with Maher Duessel and CCAP, they are preparing notifications to the Participating Subdivisions, which will be sent out on September 1, 2024. These notifications will inform the Participating Subdivisions of the estimated funds that each can expect to receive in December 2024.

Commissioner Kevin Boozel inquired about the expenditure deadline for Wave 2 settlement funds. The OAG explained that these funds will adhere to the same 18-month expenditure deadline as Wave 1 funds.

However, once the Walmart settlement is finalized, it may be subject to a separate expenditure deadline, as Walmart plans to pay the majority of its funds within the first year. This extension is being requested by both the Counties and the Trust to allow additional time for the effective utilization of this significant settlement.

Report from Penn State University Regarding September 15th Reports

Amy Yeung, Penn State University, provided an update on the upcoming reporting tool for the second round of reporting, which is due in mid-September 2024. This reporting period will cover January 1, 2024, through June 30, 2024. She outlined several enhancements being made to the reporting tool, including pre-populating fields with responses provided in prior reporting cycles, language modifications, and the addition of new questions. Amy Yeung also reported that a pilot session for the updated tool is scheduled for July. Links to the tool, along with training webinars, will be distributed in August.

Report from Maher Duessel Regarding Tax Filings and Trust Financials

Lisa Ritter, Maher Duessel, provided an update on the Trust's tax filings and financial statements. She reported that the Commonwealth tax returns (RCT 101) for 2022 and 2023 have been filed. Although there was a potential \$500 penalty for the 2022 tax return, the Commonwealth granted a one-time forgiveness waiver.

Lisa Ritter also reported that the federal tax returns (1120 SF) for 2022 and 2023 have been filed. There has been no penalty correspondence from the federal government, though delays in processing could be a factor. Any updates will be provided at a future public board meeting, if necessary.

She reviewed a cash basis financial statement for the five months ending May 2024, noting interest income and a payment from the PA Distributors to the Trust. The statement included only administrative expenses, showing a net income of just over \$21 million. Bank balances are approximately \$31.5 million in the Wilmington Trust account and around \$350,000 in the M&T Bank account.

Senator Greg Rothman expressed concern regarding administrative expenses. Chair VanKirk confirmed that administrative expenses are anticipated to remain at or above current levels, explaining that, for example, the legal fees cover a range of activities including, but not limited to: report drafting and filings, Pennsylvania Right to Know Act requests, legal advice under the Commonwealth Court Order, and Sunshine Act compliance. He also noted that the Trust benefits from a 35% discount from its law firm's normal hourly rates.

Chair VanKirk further shared that the Trust's cumulative expenses, including CCAP administrative fees, legal fees, accounting fees, and the Penn State University contract for the period June 1, 2023 through May 31, 2026, total under \$1 million. In contrast, the Trust has accrued about \$2.9 million in interest. This means that the administrative expenses to date have been fully covered by interest, with around \$2 million in interest remaining. According to the Trust Order, the Trust may spend up to 1% of the settlement funds on administrative costs. However, the Trust has not yet needed to use these funds, as all administrative

expenses have been covered by interest income. Commissioner Gene DiGirolamo affirmed that he believes this level of administrative expense is reasonable.

Resolutions to Authorize an Extension Request Procedure

Chair VanKirk reported that, pursuant to a Board resolution, extensions were automatically granted by the Trust for funds receive in Payments 1 and 2. However, with another distribution scheduled for December 2024, Chair VanKirk recommended formalizing the extension request process. He explained that a formalized process would emphasize both the importance of spending the settlement funds in a timely manner and provide a structured way to request an extension if good faith efforts to spend or commit the funds have been exhausted. Chair VanKirk then presented the following resolution for approval:

RESOLVED, that, the Board of Trustees of the Pennsylvania Opioid Misuse and Addiction Abatement Trust hereby authorizes recipients of Trust Funds to request an extension of six (6) months from any applicable deadline for the expenditure of Trust Funds (an “Extension Request”).

An Extension Request must be submitted in writing to the County Commissioners Association of Pennsylvania (“CCAP”), the Trust’s Administrator. CCAP, in conjunction with the Trust’s counsel, will design a form that must be utilized to submit an Extension Request. An Extension Request not made using the designated form developed by CCAP will not be entertained by the Board, but will be summarily rejected by CCAP with an explanation including instructions on how to access the applicable form. The Board will review each Extension Request and take action on such request at a public meeting. An Extension Request must be received by the Trust prior to the applicable deadline for which an extension is sought, must demonstrate good faith efforts to date to spend funds received from the Trust in a timely manner, and will be granted for good cause shown as determined in the sole discretion of the Board.

Senator Christine Tartaglione made a motion to approve the resolution as presented. Commissioner Gene DiGirolamo seconded the motion. Clarification was requested on whether the Extension Request Form would be posted on the Trust’s website. Chair VanKirk responded that the form would be made available on the website as soon as it was developed by CCAP. Additionally, Participating Subdivisions would receive a communication on how to access the form once it is posted. With no further discussion, the motion was approved unanimously by Trustees in attendance.

Resolutions to Create a Dispute Resolution Committee

Chair VanKirk explained the need to formalize a dispute resolution process for beneficiaries under the Trust Order. He noted that establishing a formal process for presenting disputes to the Trust would save Participating Subdivisions both time and money. Chair VanKirk further explained that, if adopted, the proposed resolution would create a committee consisting of a quorum of Trustees, and that meetings of the committee would be open to the public. The intent was for beneficiaries to present their complaints either in person or virtually before the committee as a whole. Chair VanKirk then presented the following resolution for approval:

RESOLVED, that, the Board of Trustees of the Pennsylvania Opioid Misuse and Addiction Abatement Trust hereby authorizes the Chair of the Board to establish a Dispute Resolution Committee comprised of seven (7) members of the Board of Trustees (the “Dispute Resolution Committee”) to review any Complaint filed by a beneficiary of the Trust pursuant to Section VIII.G of the Trust Order. The Dispute Resolution Committee so established is hereby authorized to respond on behalf of the Board of Trustees to any such Complaints.

Any Complaint submitted to the Board of Trustees must be submitted in writing to the County Commissioners Association of Pennsylvania (“CCAP”), the Trust’s Administrator. The Dispute Resolution Committee, in conjunction with CCAP and counsel for the Trust, will develop a form by which all Complaints must be submitted. Any Complaint must be made in writing, utilizing the designated form, and must be filed with CCAP within a reasonable period of time from when the beneficiary knows or has reason to know of the basis of its Complaint. The Dispute Resolution Committee will have discretion to determine what constitutes a reasonable period of time under the circumstances.

The Dispute Resolution Committee will review Complaints made to the Board at a public meeting of the Dispute Resolution Committee and shall respond in writing to the beneficiary within sixty (60) days of such Complaint. Any beneficiary filing a Complaint shall be provided the opportunity to appear before the Dispute Resolution Committee to present evidence and arguments in support thereof, which shall occur at a public meeting of the Dispute Resolution Committee.

The Dispute Resolution Committee’s response to any beneficiary(ies) Complaint shall be deemed a final response by the Board of Trustees pursuant to Section VIII.G. of the Trust Order.

Tumar Alexander made a motion to approve the resolution, which was seconded by Commissioner Kevin Boozel. Commissioner Kevin Boozel inquired whether the complaints would be made public on the Trust’s website and whether appearing before the Dispute Resolution Committee would preclude beneficiaries from further appealing to the Commonwealth Court. Chair VanKirk responded that information regarding the Dispute Resolution Committee meetings would be posted on the Trust’s website and clarified that this process does not limit beneficiaries' rights to appeal to the Commonwealth Court.

Secretary Latika Davis-Jones then made a motion to modify the resolution so that the Dispute Resolution Committee's final response to beneficiaries must be approved by the full Board.

After discussion, Chair VanKirk then called for a vote on the proposed amendment to require the Dispute Resolution Committee to make only a recommendation to the full Board, with the Board responsible for making the final decision. The motion to amend was rejected by a majority of Trustees in attendance. Chair VanKirk then called for a vote on the main motion, which was approved by a majority of Trustees in attendance.

May 22, 2024 Requests for Additional Information and Resolutions Regarding Certain Programs Reported Therein

Pursuant to the Trust Order, each County was required to submit a report to the Board of Trustees by March 15, 2024, demonstrating the actual expenditures of Trust funds and the amount of Trust funds received but not yet spent by the end of the preceding calendar year. Additionally, Litigating Subdivisions were encouraged, and potentially may be required in the future, to furnish such reports.

At the May 2, 2024, public meeting, the Board reviewed and voted on recommendations from the Working Groups, which had met in April. Each program was either characterized as recommended for approval, still under consideration, or recommended non-compliant. Following the May 2, 2024, public meeting, Counties were notified of the categorization of their program(s) and, for those programs still under consideration, the Trust sought additional information to determine compliance with Exhibit E. Counties were asked to submit additional information by May 22, 2024, and most of them complied with that deadline. The Working Groups then met again in early June to review the additional information and prepare recommendations for this meeting.

Chair VanKirk explained the steps that occurred before deliberating on the programs and recommendations of the Working Groups:

- The Board reviewed the recommendations made by the Working Groups to fulfill its responsibilities under the Trust Order, enabling the public to better understand how Trust funds were utilized to address opioid remediation.
- Following this meeting and subsequent Board actions, each County will receive communication from the Trust detailing approved programs compliant with Exhibit E to the Settlement Agreements, along with requests for additional information regarding programs still under consideration by the Board.
- Any programs found not compliant with Exhibit E will also be identified in the follow-up communication.
- Pursuant to the Trust Order, Counties and Litigating Subdivisions must utilize Trust funds within 18 months of receipt. However, acknowledging the need for recipients to plan the expenditure of Trust funds, the Board unanimously passed a resolution on September 7, 2023, granting requests for a 6-month extension for funds received in Wave 1 payments 1 and 2, which occurred in September 2022 and December 2022, respectively. These extensions have been granted to requesting Counties and Litigating Subdivisions, and the Board will communicate applicable deadlines accordingly.
- During the process of requesting additional information, it was discovered that certain Counties, specifically Bucks and Philadelphia, had programs with multiple sub-programs that required individual review. Consequently, the number of programs still under consideration increased significantly from approximately 360 to almost 450.

With these points clarified, the Board of Trustees proceeded to review the programs categorized as still under consideration at the May 2, 2024, public meeting and the recommendations of the Working Groups.

A spreadsheet containing a list of these programs by County in alphabetical order was displayed. Each Working Group leader identified the program by County name, Program number as reported in the March 15 report from that County, Program Name, Dollars reported as spent/committed, and the Working Group's recommendation (approved, still under consideration, or non-compliant).

The Working Group leaders then summarized the recommendations of their respective Working Groups with respect to programs reported by Adams, Allegheny, Beaver, Berks, Blair, and Bucks Counties. Bucks County Program No. 6 was originally submitted as one program that encompassed a number of separate sub-programs / mini grants, which were segregated out into Nos. 6-1 through 6-19.

RESOLUTION NO. 1 – FOLLOW-UP REPORTS: ADAMS, ALLEGHENY, BEAVER, BERKS, BLAIR, BUCKS COUNTY

RESOLVED, that, the Board of Trustees of the Pennsylvania Opioid Misuse and Addiction Abatement Trust (the "Trust"), based on the recommendations of the Working Groups that met and reviewed the follow-up reports from Counties, hereby approves the following programs as compliant with the applicable settlement terms as set forth in Exhibit E described and incorporated into the July 12, 2022 Order of the Commonwealth Court that created the Trust:

- Adams County Program No.: 2
- Allegheny County Program Nos.: 4, 7-8, 14
- Beaver County Program Nos.: 1, 3-4
- Berks County Program Nos.: 1, 24
- Blair County Program No.: 1
- Bucks County Program Nos.: 1-2, 6-1 through 6-19, 7, 10, 14, 16

Commissioner Robert Postal made a motion to approve the resolution as presented. Shea Madden seconded the motion. The motion was approved unanimously by Trustees in attendance.

AND FURTHER RESOLVED, that, the Board of Trustees of the Trust, based on the recommendations of the Working Groups, hereby disapproves the following programs as non-compliant with the applicable settlement terms as set forth in Exhibit E:

- Adams County Program No.: 1
- Blair County Program No.: 2
- Bucks County Program Nos.: 13, 17

Commissioner Kevin Boozel made a motion to approve the resolution as presented. Shea Madden seconded the motion. The motion was approved unanimously by Trustees in attendance.

The Working Group leaders then summarized the recommendations of their respective Working Groups with respect to programs reported by Butler, Cambria, Cameron, Centre, Chester, and Dauphin Counties.

Morgan Wagner, representing Senator Greg Rothman, requested that Chester County Program No. 12 be reclassified from “still under consideration” to “recommend approval” to align it with other coroner programs. Chair VanKirk explained that the Trust could review its position on coroner programs once it confirmed that expanded toxicology testing would be used for targeted outreach and treatment, not for punitive or policing purposes. No further motion was made or discussion undertaken.

Additionally, Morgan Wagner, representing Senator Greg Rothman, requested that Dauphin County Program No. 3 be moved from “recommended non-compliant” to “still under consideration.” The request was based on the concern that women in the program were asked to self-report their addiction details and might have hesitated to disclose this information due to fear and stigma. No Trustees in attendance seconded the motion.

Senator Greg Rothman made a motion for Dauphin County No. 16 to be disapproved. No Trustees in attendance offered a second and the motion failed.

RESOLUTION NO. 2 – FOLLOW-UP REPORTS: BUTLER, CAMBRIA, CENTRE, CHESTER, DAUPHIN COUNTY

RESOLVED, that, the Board of Trustees of the Pennsylvania Opioid Misuse and Addiction Abatement Trust (the “Trust”), based on the recommendations of the Working Groups that met and reviewed the follow-up reports from Counties, hereby approves the following programs as compliant with the applicable settlement terms as set forth in Exhibit E described and incorporated into the July 12, 2022 Order of the Commonwealth Court that created the Trust:

- Butler County Program Nos.: 3-4
- Cambria County Program No.: 1
- Centre County Program Nos.: 1, 3-8
- Chester County Program Nos.: 8-11, 13, 20-22, 28-29, 32-33
- Dauphin County Program Nos.: 1, 4, 6, 14-16, 19

Tumar Alexander made a motion to approve the resolution as presented. Commissioner Robert Postal seconded the motion. Commissioner Boozel abstained from the vote for Butler County only (all programs); otherwise, he voted yea. Senator Greg Rothman voted “no” for Dauphin County Program No. 16 only. The motion was approved by a majority of the Trustees in attendance.

AND FURTHER RESOLVED, that, the Board of Trustees of the Trust, based on the recommendations of the Working Groups, hereby disapproves the following programs as non-compliant with the applicable settlement terms as set forth in Exhibit E:

- Chester County Program No.: 14
- Dauphin County Program No.: 3

Senator Christine Tartaglione made a motion to approve the resolution as presented. Commissioner Kevin Boozel seconded the motion. The motion was approved by a majority of the Trustees in attendance

Senator Greg Rothman made a motion to change Chester County Program No. 12 from “still under consideration” to “recommend approval.” Commissioner Robert Postal seconded the motion. Commissioner Kevin Boozel voiced concern that altering the status of this particular program could bypass the newly established Dispute Resolution Committee, which was created to address such issues. The motion was disapproved by a majority of the Trustees in attendance.

The Working Group leaders then summarized the recommendations of their respective Working Groups with respect to programs reported by Elk, Erie, Fayette, Huntingdon, Jefferson, Juniata, Lancaster, Lawrence, Lebanon, and Lehigh Counties. Chair Tom VanKirk noted that Lancaster County Program No. 5 is the first program to be voluntarily withdrawn. Chair Tom VanKirk reviewed Lawrence County No. 7 stating that it was initially categorized as non-compliant but has been reconsidered as recommend approval.

RESOLUTION NO. 3 – FOLLOW-UP REPORTS: ELK, ERIE, FAYETTE, HUNTINGDON, JUNIATA, LANCASTER, LAWRENCE, LEHIGH COUNTY

RESOLVED, that, the Board of Trustees of the Pennsylvania Opioid Misuse and Addiction Abatement Trust (the “Trust”), based on the recommendations of the Working Groups that met and reviewed the follow-up reports from Counties, hereby approves the following programs as compliant with the applicable settlement terms as set forth in Exhibit E described and incorporated into the July 12, 2022 Order of the Commonwealth Court that created the Trust:

- Elk County Program Nos.: 1-2
- Erie County Program Nos.: 1-2, 5-8, 10, 12
- Fayette County Program No.: 5
- Huntingdon County Program Nos.: 1, 3-6
- Juniata County Program Nos.: 1, 3-6
- Lancaster County Program Nos.: 2-4
- Lawrence County Program No.: 7
- Lehigh County Program Nos.: 2-3

Commissioner Kevin Boozel made a motion to approve the resolution as presented. Tumar Alexander seconded the motion. Commissioner Robert Postal abstained from the vote for Huntingdon and Juniata Counties only (all programs); otherwise, he voted yea. Senator Greg Rothman voted “no” for Huntingdon and Juniata Counties Program No. 5 only. The motion was approved by a majority of the Trustees in attendance.

AND FURTHER RESOLVED, that, the Board of Trustees of the Trust, based on the recommendations of the Working Groups, hereby disapproves the following programs as non-compliant with the applicable settlement terms as set forth in Exhibit E:

- Erie County Program Nos.: 9, 11

Shea Madden made a motion to approve the resolution as presented. Secretary Latika Davis-Jones seconded the motion. The motion was approved unanimously by Trustees in attendance.

The Working Group leaders then summarized the recommendations of their respective Working Groups with respect to programs reported by McKean, Mercer, Mifflin, Montgomery, Montour, and Northampton Counties. Chair VanKirk explained that the Working Group decided that more information was needed for Montgomery County Program No. 6 since it was reported that only upwards of 25% was for opioid use disorder.

RESOLUTION NO. 4 – FOLLOW-UP REPORTS: MCKEAN, MERCER, MIFFLIN, MONTGOMERY, MONTOUR, NORTHAMPTON COUNTY

RESOLVED, that, the Board of Trustees of the Pennsylvania Opioid Misuse and Addiction Abatement Trust (the “Trust”), based on the recommendations of the Working Groups that met and reviewed the follow-up reports from Counties, hereby approves the following programs as compliant with the applicable settlement terms as set forth in Exhibit E described and incorporated into the July 12, 2022 Order of the Commonwealth Court that created the Trust:

- McKean County program no.: 5
- Mercer County program nos.: 1, 4-6, 8-9, 11
- Mifflin County program nos.: 1, 3-6
- Montgomery County program no.: 3
- Montour County program no.: 1
- Northampton County program nos.: 4-5, 7

Tumar Alexander made a motion to approve the resolution as presented. Secretary Latika Davis-Jones seconded the motion. Commissioner Robert Postal abstained from the vote for Mifflin County only (all programs); otherwise, he voted yea. Senator Greg Rothman voted “no” for Mifflin County Program No. 5 only. The motion was approved by a majority of the Trustees in attendance.

The Working Group leaders then summarized the recommendations of their respective Working Groups with respect to programs reported by Philadelphia County. Chair VanKirk stated that Philadelphia County’s Program Nos. 8 and 9 were broken out in more detail to include the sub-programs / mini grants.

Before reviewing Philadelphia County’s Program No. 8, Commissioner Kevin Boozel explained that this program is broken up into three sections, and is labeled as such (e.g., 8(a)1). The Trustees then engaged in a discussion regarding prevention programs. Particularly, Commissioner Robert Postal and Senator Christine Tartaglione explained that they needed to see more detail tying the prevention activities to opioid use disorder. Secretary Latika Davis-Jones shared that many of the programs listed by Philadelphia are utilized elsewhere in the Commonwealth, but most make some mention of combatting or preventing substance use disorder.

RESOLUTION NO. 5 – FOLLOW-UP REPORTS: PHILADELPHIA COUNTY

RESOLVED, that, the Board of Trustees of the Pennsylvania Opioid Misuse and Addiction Abatement Trust (the “Trust”), based on the recommendations of the Working Groups that met and reviewed the follow-up reports from Counties, hereby approves the following programs as compliant with the applicable settlement terms as set forth in Exhibit E described and incorporated into the July 12, 2022 Order of the Commonwealth Court that created the Trust:

- Philadelphia County Program Nos.:
 - 8(a) 1-6
 - 8(a) 8
 - 8(a) 10
 - 8(b) 2
 - 8(b) 4-7
 - 8(b) 10
 - 8(b) 12-13
 - 8(b) 15
 - 8(c) 9
 - 8(c) 32

Senator Christine Tartaglione made a motion to approve the resolution as presented. Tumar Alexander seconded the motion. Senator Greg Rothman voted “no” for Philadelphia County Program Nos. 8(a)4, 8(a)5, 8(b)7, and 8(b)10 only. The motion was approved by a majority of the Trustees in attendance.

AND FURTHER RESOLVED, that, the Board of Trustees of the Trust, based on the recommendations of the Working Groups, hereby disapproves the following programs as non-compliant with the applicable settlement terms as set forth in Exhibit E:

- Philadelphia County Program Nos.: 9(a) - 9(e)

Commissioner Kevin Boozel made a motion to approve the resolution as presented. Commissioner Robert Postal seconded the motion. Tumar Alexander voted “no.” The motion was approved by a majority of the Trustees in attendance.

The Working Group leaders then summarized the recommendations of their respective Working Groups with respect to programs reported by Somerset, Sullivan, Tioga, Venango, Washington, Westmoreland, Wyoming, and York Counties.

RESOLUTION NO. 6 – FOLLOW-UP REPORTS: SOMERSET, SULLIVAN, TIOGA, VENANGO, WYOMING, YORK COUNTY

RESOLVED, that, the Board of Trustees of the Pennsylvania Opioid Misuse and Addiction Abatement Trust (the “Trust”), based on the recommendations of the Working Groups that met and reviewed the follow-up reports from Counties, hereby approves the following programs as compliant with the applicable settlement terms as set forth in Exhibit E described and incorporated into the July 12, 2022 Order of the Commonwealth Court that created the Trust:

- Somerset County Program Nos.: 3-4, 8
- Sullivan County Program No.: 1
- Tioga County Program Nos.: 1, 5, 7, 9
- Venango County Program No.: 1
- Wyoming County Program No.: 1
- York County Program Nos.: 5, 7, 11

Commissioner Kevin Boozel made a motion to approve the resolution as presented. Senator Christine Tartaglione seconded the motion. The motion was approved unanimously by Trustees in attendance.

AND FURTHER RESOLVED, that, the Board of Trustees of the Trust, based on the recommendations of the Working Groups, hereby disapproves the following programs as non-compliant with the applicable settlement terms as set forth in Exhibit E:

- Somerset County Program No.: 2

Commissioner Kevin Boozel made a motion to approve the resolution as presented. Commissioner Robert Postal seconded the motion. The motion was approved unanimously by Trustees in attendance.

New Business

No new business was identified.

Chair VanKirk adjourned the meeting at 1:05 PM.