CHAPTER 49

(HB 537)

AN ACT relating to the opioid abatement trust fund.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 15.293 is amended to read as follows:

(1) As used in this section, "commission" means the Kentucky Opioid Abatement Advisory Commission created in KRS 15.291.

(2) There is hereby established in the State Treasury a trust and agency account to be known as the opioid abatement trust fund. Moneys in the fund ***shall be***~~[are hereby appropriated for the purposes set forth in KRS 15.291,]~~ distributed as described in subsection (3) of this section ***unless inconsistent with an order of a court of competent jurisdiction in connection with any settlement, judgment, or bankruptcy proceeding for the purposes set forth in Section 2 of this Act***~~[, and shall not be appropriated or transferred by the General Assembly for any other purposes]~~.

(3) The fund shall consist of:

(a) Fifty percent (50%) of all proceeds received by the Commonwealth, counties, consolidated local governments, urban-county governments, and cities of the Commonwealth in any settlement,~~[or]~~ judgment***,*** or bankruptcy proceeding against ***any entity or person engaged in the manufacturing or distribution of opioids to the extent included in a settlement agreement***~~[McKesson Corporation, Cardinal Health 5, LLC, Amerisourcebergen Drug Corporation, Johnson & Johnson, and any named defendant in In re National Prescription Opiate Litigation, MDL No. 2804, Case No. 1:17 md 02804, in the United States District Court for the Northern District of Ohio, and any of their affiliates or subsidiaries related to opioid manufacturing or distribution to the extent included in a settlement agreement]~~; and

(b) Any other moneys received from state appropriations, gifts, grants,~~[or]~~ federal funds***, or any other source not prohibited by law***.

(4) (a) The fund shall not consist of the remaining fifty percent (50%) of all proceeds received by the Commonwealth, counties, consolidated local governments, urban-county governments, and cities of the Commonwealth in any settlement,~~[or]~~ judgment***,*** or bankruptcy proceeding against ***any entity or person engaged in the manufacturing or distribution of opioids to the extent that it is not inconsistent with an order of a court of competent jurisdiction***~~[McKesson Corporation, Cardinal Health 5, LLC, Amerisourcebergen Drug Corporation, Johnson & Johnson, and any named defendant in In re National Prescription Opiate Litigation, MDL No. 2804, Case No. 1:17 md 02804, in the United States District Court for the Northern District of Ohio, and any of their affiliates or subsidiaries related to opioid manufacturing or distribution to the extent included in a settlement agreement]~~.

(b) The remaining fifty percent (50%) of all proceeds not included in the fund shall be paid to counties, consolidated local governments, urban-county governments, and cities of the Commonwealth in accordance with the negotiation class distribution metrics established in In re National Prescription Opiate Litigation, MDL No. 2804, Case No. 1:17-md-02804, in the United States District Court for the Northern District of Ohio ***unless precluded by order of a court of competent jurisdiction in connection with any settlement, judgment, or bankruptcy proceeding***. To the extent that the negotiation class distribution metrics would result in a city receiving a sum total of less than thirty thousand dollars ($30,000) in any individual settlement, judgment, or bankruptcy proceeding, such payments shall be made to the county, consolidated local government, or urban-county government in which that city sits.

(c) 1. Each recipient of moneys from the fund shall submit on an annual basis a certification that the funds were used consistent with the criteria in KRS 15.291(5), a description of the use of ***the***~~[such]~~ funds, and ***any***~~[such]~~ other information as the commission requests through administrative ***regulations promulgated in accordance with KRS Chapter 13A***~~[regulation]~~.

2. a. Each county, consolidated local government, urban-county government, or city of the Commonwealth that receives any proceeds under paragraph (b) of this subsection shall submit~~[,]~~ on an annual basis a certification that the funds were used consistent with the

criteria in KRS 15.291(5), a list of fund recipients and amounts, a description of the use of the funds, and any other information as the commission requests through the promulgation of an administrative regulation.

b. If a trustee is appointed under paragraph (b) of this subsection, the certifications shall be sent to the trustee, and the trustee will compile and submit one (1) report to the commission.

c. If a trustee is not appointed, the certifications shall be submitted to the commission as provided by administrative regulation.

d. Funds shall be withheld from any county, consolidated local government, urban-county government, or city of the Commonwealth that does not comply with this paragraph until such time as compliance is achieved.

(d) To the extent that a settlement has been reached in any litigation against ***any entity or person engaged in the manufacturing or distribution of opioids as provided*** ~~[the companies listed]~~ in paragraph (a) of this subsection, each county, consolidated local government, urban-county government, city, political subdivision, and public agency, as that term is defined in KRS 61.805(2), of the Commonwealth shall be deemed to have released its claims against the ***person or entity*** ~~[companies listed in paragraph (a) of this subsection]~~ and ***its*** ~~[their]~~ affiliates and subsidiaries to the extent referenced in a settlement agreement, consent judgment, order, or other document that reflects the terms of any settlement.

(5) Amounts deposited in the fund shall be used only for the purposes described in KRS 15.291.

(6) Notwithstanding KRS 45.229, moneys in the fund not expended at the close of a fiscal year shall not lapse but shall be carried forward into the next fiscal year.

(7) Any interest earnings of the fund shall become a part of the fund and shall not lapse.

(8) Moneys in the fund shall be distributed no less than annually.

(9) (a) The Department of Law may recover its reasonable costs of litigation from the moneys received under subsection (3)(a) of this section.

(b) The Department of Law may recover any direct costs, including employee time, used to perform or administer the duties required by this section and KRS 15.291 from the moneys received under subsection (3)(a) of this section. The Department of Law shall report all such recovered costs to the commission no less than annually.

(10) The commission shall continue to make distributions from the fund as long as defendants in the opioid litigation make payments to the Commonwealth or until the time that the moneys in the fund are exhausted.

(11) In the event an order of a court of competent jurisdiction precludes distribution of the funds related to any settlement, judgment, or distribution in bankruptcy pursuant to subsections (3) and (4) of this section, the Attorney General shall promulgate administrative regulations in accordance with KRS Chapter 13A prescribing the mechanism for the distribution of the funds in a manner that complies with the order of the court and effectuates the intent of this section to the maximum extent possible.

➔Section 2. KRS 15.291 is amended to read as follows:

(1) There is hereby established the Kentucky Opioid Abatement Advisory Commission. The commission shall be attached to the Department of Law for administrative purposes.

(2) (a) The commission shall consist of the following voting members:

1. The Attorney General or his or her designee, who shall act as chair;

2. The State Treasurer or his or her designee;

3. The secretary of the Cabinet for Health and Family Services or his or her designee;

4. One (1) member appointed by the University of Kentucky from the HEALing Communities Study Team;

5. One (1) member appointed by the Attorney General representing victims of the opioid crisis;

6. One (1) member appointed by the Attorney General representing the drug treatment and prevention community;

7. One (1) member appointed by the Attorney General representing law enforcement; and

8. Two (2) citizens at large appointed by the Attorney General.

(b) The commission shall consist of the following nonvoting members who shall serve at the pleasure of their appointing authority:

1. One (1) member appointed by the Speaker of the House of Representatives; and

2. One (1) member appointed by the President of the Senate.

(3) (a) Members of the commission appointed under subsection (2)(a)1. to 3. of this section shall serve terms concurrent with holding their respective offices or positions.

(b) The remaining members of the commission shall serve staggered two (2) year terms as follows:

1. Members of the commission appointed under subsection (2)(a)4. to 6. of this section shall serve an initial term of two (2) years; and

2. Members of the commission appointed under subsection (2)(a)7. to 8. of this section shall serve an initial term of one (1) year.

(c) Members of the commission shall not receive compensation for their services but may be reimbursed for necessary travel and lodging expenses incurred in the performance of their duties.

(4) (a) Meetings of the commission shall be conducted according to KRS 61.800 to 61.850.

(b) The commission shall meet at least twice within each calendar year.

(c) Five (5) voting members of the commission shall constitute a quorum for the transaction of business.

(d) Each member of the commission shall have one (1) vote, with all actions being taken by an affirmative vote of the majority of members present.

(5) The commission shall award moneys from the opioid abatement trust fund established in KRS 15.293 to reimburse prior expenses or to fund projects according to the following criteria related to opioid use disorder (OUD) or any co-occurring substance use disorder or mental health (SUD/MH) issues:

(a) Reimbursement for:

1. Any portion of the cost related to outpatient and residential treatment services, including:

a. Services provided to incarcerated individuals;

b. Medication-assisted treatment;

c. Abstinence-based treatment; and

d. Treatment, recovery, or other services provided by community health centers or not-for-profit providers;

2. Emergency response services provided by law enforcement or first responders; or

3. Any portion of the cost of administering an opioid antagonist as defined in KRS 217.186; or

(b) Provide funding for any project which:

1. Supports intervention, treatment, and recovery services provided to persons:

a. With OUD or co-occurring SUD/MH issues; or

b. Who have experienced an opioid overdose;

2. Supports detoxification services, including:

a. Medical detoxification;

b. Referral to treatment; or

c. Connections to other services;

3. Provides access to opioid-abatement-related housing, including:

a. Supportive housing; or

b. Recovery housing;

4. Provides or supports transportation to treatment or recovery programs or services;

5. Provides employment training or educational services for persons in treatment or recovery;

6. Creates or supports centralized call centers that provide information and connections to appropriate services;

7. Supports crisis stabilization centers that serve as an alternative to hospital emergency departments for persons with OUD and any co-occurring SUD/MH issues or persons that have experienced an opioid overdose;

8. Improves oversight of opioid treatment programs to ensure evidence-based and evidence-informed practices;

9. Provides scholarships and support for certified addiction counselors and other mental and behavioral health providers, including:

a. Training scholarships;

b. Fellowships;

c. Loan repayment programs; or

d. Incentives for providers to work in rural or underserved areas of the Commonwealth;

10. Provides training on medication-assisted treatment for health care providers, students, or other supporting professionals;

11. Supports efforts to prevent over-prescribing and ensures appropriate prescribing and dispensing of opioids;

12. Supports enhancements or improvements consistent with state law for prescription drug monitoring programs;

13. Supports the education of law enforcement or other first responders regarding appropriate practices and precautions when dealing with opioids or individuals with OUD or co-occurring SUD/MH issues;

14. Supports opioid-related emergency response services provided by law enforcement or first responders;

15. Treats mental health trauma issues resulting from the traumatic experiences of opioid users or their family members;

16. Engages nonprofits, the faith community, and community coalitions to support prevention and treatment, and to support family members in their efforts to care for opioid users in their family;

17. Provides recovery services, support, and prevention services for women who are pregnant, may become pregnant, or who are parenting with OUD or co-occurring SUD/MH issues;

18. Trains healthcare providers that work with pregnant or parenting women on best practices for compliances with federal requirements that children born with Neonatal Abstinence Syndrome get referred to appropriate services and receive a plan of care;

19. Addresses Neonatal Abstinence Syndrome, including prevention, education, and treatment of OUD and any co-occurring SUD/MH issues;

20. Offers home-based wrap-around services to persons with OUD and any co-occurring SUD/MH issues, including parent-skills training;

21. Supports positions and services, including supportive housing and other residential services relating to children being removed from the home or placed in foster care due to custodial opioid use;

22. Provides public education about opioids or opioid disposal;

23. Provides drug take-back disposal or destruction programs;

24. Covers the cost of administering an opioid antagonist as defined in KRS 217.186;

25. Supports pre-trial services that connect individuals with OUD and any co-occurring SUD/MH issues to evidence-informed treatment and related services;

26. Supports treatment and recovery courts for persons with OUD and any co-occurring SUD/MH issues, but only if they provide referrals to evidence-informed treatment;

27. Provides evidence-informed treatment, recovery support, harm reduction, or other appropriate services to individuals with OUD and any co-occurring SUD/MH issues who are incarcerated, leaving jail or prison, have recently left jail or prison, are on probation or parole, are under community corrections supervision, or are in re-entry programs or facilities;

28. Meets the criteria included in any settlement agreement***,*** ~~[or]~~ judgment***, or bankruptcy order as provided*** ~~[between the parties listed]~~ in KRS 15.293(3)(a); or

29. Any other project deemed appropriate for opioid-abatement purposes by the commission.

(6) The commission may identify additional duties or responsibilities, including:

(a) Reporting on projects and programs related to addressing the opioid epidemic;

(b) Developing priorities, goals, and recommendations for spending on the projects and programs;

(c) Working with state agencies or outside entities to develop measures for projects and programs that address substance use disorders; or

(d) Making recommendations for policy changes on a state or local level, including statutory law and administrative regulations.

(7) The commission shall:

(a) Create and maintain a ***website*** ~~[Web site]~~ on which it shall publish its minutes, attendance rolls, funding awards, and reports of funding by recipients; and

(b) Promulgate administrative regulations to implement this section. The commission may promulgate emergency administrative regulations to take effect immediately so that funds may be distributed more quickly and efficiently to combat the opioid epidemic.

Signed by Governor March 24, 2025.