

1 AN ACT relating to the opioid abatement trust fund.

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

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

- 4 (1) As used in this section, "commission" means the Kentucky Opioid Abatement  
5 Advisory Commission created in KRS 15.291.
- 6 (2) There is hereby established in the State Treasury a trust and agency account to be  
7 known as the opioid abatement trust fund. Moneys in the fund ~~*shall be*~~ ~~[are hereby~~  
8 ~~appropriated for the purposes set forth in KRS 15.291.]~~ distributed as described in  
9 subsection (3) of this section **unless inconsistent with an order of a court of**  
10 **competent jurisdiction in connection with any settlement, judgment, or**  
11 **bankruptcy proceeding for the purposes set forth in Section 2 of this Act**~~, and~~  
12 ~~shall not be appropriated or transferred by the General Assembly for any other~~  
13 ~~purposes].~~
- 14 (3) The fund shall consist of:
- 15 (a) Fifty percent (50%) of all proceeds received by the Commonwealth, counties,  
16 consolidated local governments, urban-county governments, and cities of the  
17 Commonwealth in any settlement~~, [or]~~ judgment~~, or~~ bankruptcy proceeding  
18 against **any entity or person engaged in the manufacturing or distribution of**  
19 **opioids to the extent included in a settlement agreement**~~[McKesson~~  
20 ~~Corporation, Cardinal Health 5, LLC, Amerisourcebergen Drug Corporation,~~  
21 ~~Johnson & Johnson, and any named defendant in In re National Prescription~~  
22 ~~Opiate Litigation, MDL No. 2804, Case No. 1:17-md-02804, in the United~~  
23 ~~States District Court for the Northern District of Ohio, and any of their~~  
24 ~~affiliates or subsidiaries related to opioid manufacturing or distribution to the~~  
25 ~~extent included in a settlement agreement]; and~~
- 26 (b) Any other moneys received from state appropriations, gifts, grants,~~[or]~~  
27 federal funds, **or any other source not prohibited by law.**

- 1 (4) (a) The fund shall not consist of the remaining fifty percent (50%) of all proceeds  
2 received by the Commonwealth, counties, consolidated local governments,  
3 urban-county governments, and cities of the Commonwealth in any  
4 settlement, ~~[- or] judgment, or bankruptcy proceeding against any entity or~~  
5 ~~person engaged in the manufacturing or distribution of opioids to the extent~~  
6 ~~that it is not inconsistent with an order of a court of competent~~  
7 ~~jurisdiction~~ ~~[McKesson Corporation, Cardinal Health 5, LLC,~~  
8 ~~Amerisourcebergen Drug Corporation, Johnson & Johnson, and any named~~  
9 ~~defendant in In re National Prescription Opiate Litigation, MDL No. 2804,~~  
10 ~~Case No. 1:17-md-02804, in the United States District Court for the Northern~~  
11 ~~District of Ohio, and any of their affiliates or subsidiaries related to opioid~~  
12 ~~manufacturing or distribution to the extent included in a settlement~~  
13 ~~agreement].~~
- 14 (b) The remaining fifty percent (50%) of all proceeds not included in the fund  
15 shall be paid to counties, consolidated local governments, urban-county  
16 governments, and cities of the Commonwealth in accordance with the  
17 negotiation class distribution metrics established in In re National Prescription  
18 Opiate Litigation, MDL No. 2804, Case No. 1:17-md-02804, in the United  
19 States District Court for the Northern District of Ohio unless precluded by  
20 order of a court of competent jurisdiction in connection with any settlement,  
21 judgment, or bankruptcy proceeding. To the extent that the negotiation class  
22 distribution metrics would result in a city receiving a sum total of less than  
23 thirty thousand dollars (\$30,000) in any individual settlement, judgment, or  
24 bankruptcy proceeding, such payments shall be made to the county,  
25 consolidated local government, or urban-county government in which that city  
26 sits.
- 27 (c) 1. Each recipient of moneys from the fund shall submit on an annual basis

1 a certification that the funds were used consistent with the criteria in  
2 KRS 15.291(5), a description of the use of ~~the~~<sup>such</sup> funds, and  
3 ~~any~~<sup>such</sup> other information as the commission requests through  
4 administrative regulations promulgated in accordance with KRS  
5 Chapter 13A~~[regulation]~~.

6 2. a. Each county, consolidated local government, urban-county  
7 government, or city of the Commonwealth that receives any  
8 proceeds under paragraph (b) of this subsection shall submit~~[-]~~ on  
9 an annual basis a certification that the funds were used consistent  
10 with the criteria in KRS 15.291(5), a list of fund recipients and  
11 amounts, a description of the use of the funds, and any other  
12 information as the commission requests through the promulgation  
13 of an administrative regulation.

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

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

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

23 (d) To the extent that a settlement has been reached in any litigation against any  
24 entity or person engaged in the manufacturing or distribution of opioids as  
25 provided~~[the companies listed]~~ in paragraph (a) of this subsection, each  
26 county, consolidated local government, urban-county government, city,  
27 political subdivision, and public agency, as that term is defined in KRS

1           61.805(2), of the Commonwealth shall be deemed to have released its claims  
2           against the person or entity~~[companies listed in paragraph (a) of this~~  
3           ~~subsection]~~ and its~~[their]~~ affiliates and subsidiaries to the extent referenced in  
4           a settlement agreement, consent judgment, order, or other document that  
5           reflects the terms of any settlement.

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

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

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

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

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

15          (b) The Department of Law may recover any direct costs, including employee  
16          time, used to perform or administer the duties required by this section and  
17          KRS 15.291 from the moneys received under subsection (3)(a) of this section.

18          The Department of Law shall report all such recovered costs to the  
19          commission no less than annually.

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

23          **(11) In the event an order of a court of competent jurisdiction precludes distribution**  
24          **of the funds related to any settlement, judgment, or distribution in bankruptcy**  
25          **pursuant to subsections (3) and (4) of this section, the Attorney General shall**  
26          **promulgate administrative regulations in accordance with KRS Chapter 13A**  
27          **prescribing the mechanism for the distribution of the funds in a manner that**

1        *complies with the order of the court and effectuates the intent of this section to*  
2        *the maximum extent possible.*

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

- 4        (1) There is hereby established the Kentucky Opioid Abatement Advisory Commission.  
5        The commission shall be attached to the Department of Law for administrative  
6        purposes.
- 7        (2) (a) The commission shall consist of the following voting members:
- 8                1. The Attorney General or his or her designee, who shall act as chair;  
9                2. The State Treasurer or his or her designee;  
10              3. The secretary of the Cabinet for Health and Family Services or his or  
11              her designee;  
12              4. One (1) member appointed by the University of Kentucky from the  
13              HEALing Communities Study Team;  
14              5. One (1) member appointed by the Attorney General representing victims  
15              of the opioid crisis;  
16              6. One (1) member appointed by the Attorney General representing the  
17              drug treatment and prevention community;  
18              7. One (1) member appointed by the Attorney General representing law  
19              enforcement; and  
20              8. Two (2) citizens at large appointed by the Attorney General.
- 21        (b) The commission shall consist of the following nonvoting members who shall  
22        serve at the pleasure of their appointing authority:
- 23              1. One (1) member appointed by the Speaker of the House of  
24              Representatives; and  
25              2. One (1) member appointed by the President of the Senate.
- 26        (3) (a) Members of the commission appointed under subsection (2)(a)1. to 3. of this  
27        section shall serve terms concurrent with holding their respective offices or

1 positions.

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

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

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

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

11 (4) (a) Meetings of the commission shall be conducted according to KRS 61.800 to  
12 61.850.

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

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

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

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

22 (a) Reimbursement for:

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

25 a. Services provided to incarcerated individuals;

26 b. Medication-assisted treatment;

27 c. Abstinence-based treatment; and

- 1 d. Treatment, recovery, or other services provided by community
- 2 health centers or not-for-profit providers;
- 3 2. Emergency response services provided by law enforcement or first
- 4 responders; or
- 5 3. Any portion of the cost of administering an opioid antagonist as defined
- 6 in KRS 217.186; or
- 7 (b) Provide funding for any project which:
- 8 1. Supports intervention, treatment, and recovery services provided to
- 9 persons:
- 10 a. With OUD or co-occurring SUD/MH issues; or
- 11 b. Who have experienced an opioid overdose;
- 12 2. Supports detoxification services, including:
- 13 a. Medical detoxification;
- 14 b. Referral to treatment; or
- 15 c. Connections to other services;
- 16 3. Provides access to opioid-abatement-related housing, including:
- 17 a. Supportive housing; or
- 18 b. Recovery housing;
- 19 4. Provides or supports transportation to treatment or recovery programs or
- 20 services;
- 21 5. Provides employment training or educational services for persons in
- 22 treatment or recovery;
- 23 6. Creates or supports centralized call centers that provide information and
- 24 connections to appropriate services;
- 25 7. Supports crisis stabilization centers that serve as an alternative to
- 26 hospital emergency departments for persons with OUD and any co-
- 27 occurring SUD/MH issues or persons that have experienced an opioid

- 1 overdose;
- 2 8. Improves oversight of opioid treatment programs to ensure evidence-
- 3 based and evidence-informed practices;
- 4 9. Provides scholarships and support for certified addiction counselors and
- 5 other mental and behavioral health providers, including:
- 6 a. Training scholarships;
- 7 b. Fellowships;
- 8 c. Loan repayment programs; or
- 9 d. Incentives for providers to work in rural or underserved areas of
- 10 the Commonwealth;
- 11 10. Provides training on medication-assisted treatment for health care
- 12 providers, students, or other supporting professionals;
- 13 11. Supports efforts to prevent over-prescribing and ensures appropriate
- 14 prescribing and dispensing of opioids;
- 15 12. Supports enhancements or improvements consistent with state law for
- 16 prescription drug monitoring programs;
- 17 13. Supports the education of law enforcement or other first responders
- 18 regarding appropriate practices and precautions when dealing with
- 19 opioids or individuals with OUD or co-occurring SUD/MH issues;
- 20 14. Supports opioid-related emergency response services provided by law
- 21 enforcement or first responders;
- 22 15. Treats mental health trauma issues resulting from the traumatic
- 23 experiences of opioid users or their family members;
- 24 16. Engages nonprofits, the faith community, and community coalitions to
- 25 support prevention and treatment, and to support family members in
- 26 their efforts to care for opioid users in their family;
- 27 17. Provides recovery services, support, and prevention services for women



- 1           who are pregnant, may become pregnant, or who are parenting with  
2            OUD or co-occurring SUD/MH issues;
- 3           18. Trains healthcare providers that work with pregnant or parenting women  
4            on best practices for compliances with federal requirements that children  
5            born with Neonatal Abstinence Syndrome get referred to appropriate  
6            services and receive a plan of care;
- 7           19. Addresses Neonatal Abstinence Syndrome, including prevention,  
8            education, and treatment of OUD and any co-occurring SUD/MH issues;
- 9           20. Offers home-based wrap-around services to persons with OUD and any  
10           co-occurring SUD/MH issues, including parent-skills training;
- 11           21. Supports positions and services, including supportive housing and other  
12            residential services relating to children being removed from the home or  
13            placed in foster care due to custodial opioid use;
- 14           22. Provides public education about opioids or opioid disposal;
- 15           23. Provides drug take-back disposal or destruction programs;
- 16           24. Covers the cost of administering an opioid antagonist as defined in KRS  
17            217.186;
- 18           25. Supports pre-trial services that connect individuals with OUD and any  
19            co-occurring SUD/MH issues to evidence-informed treatment and  
20            related services;
- 21           26. Supports treatment and recovery courts for persons with OUD and any  
22            co-occurring SUD/MH issues, but only if they provide referrals to  
23            evidence-informed treatment;
- 24           27. Provides evidence-informed treatment, recovery support, harm  
25            reduction, or other appropriate services to individuals with OUD and  
26            any co-occurring SUD/MH issues who are incarcerated, leaving jail or  
27            prison, have recently left jail or prison, are on probation or parole, are

- 1 under community corrections supervision, or are in re-entry programs or  
2 facilities;
- 3 28. Meets the criteria included in any settlement agreement, ~~or~~ judgment,  
4 or bankruptcy order as provided ~~between the parties listed~~ in KRS  
5 15.293(3)(a); or
- 6 29. Any other project deemed appropriate for opioid-abatement purposes by  
7 the commission.
- 8 (6) The commission may identify additional duties or responsibilities, including:
- 9 (a) Reporting on projects and programs related to addressing the opioid epidemic;
- 10 (b) Developing priorities, goals, and recommendations for spending on the  
11 projects and programs;
- 12 (c) Working with state agencies or outside entities to develop measures for  
13 projects and programs that address substance use disorders; or
- 14 (d) Making recommendations for policy changes on a state or local level,  
15 including statutory law and administrative regulations.
- 16 (7) The commission shall:
- 17 (a) Create and maintain a website ~~Web site~~ on which it shall publish its minutes,  
18 attendance rolls, funding awards, and reports of funding by recipients; and
- 19 (b) Promulgate administrative regulations to implement this section. The  
20 commission may promulgate emergency administrative regulations to take  
21 effect immediately so that funds may be distributed more quickly and  
22 efficiently to combat the opioid epidemic.