

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 engaged in the manufacturing or distribution of opioids to**
19 **the extent included in a settlement agreement**~~[McKesson Corporation,~~
20 ~~Cardinal Health 5, LLC, Amerisourcebergen Drug Corporation, Johnson &~~
21 ~~Johnson, and any named defendant in In re National Prescription Opiate~~
22 ~~Litigation, MDL No. 2804, Case No. 1:17-md-02804, in the United States~~
23 ~~District Court for the Northern District of Ohio, and any of their affiliates or~~
24 ~~subsidiaries related to opioid manufacturing or distribution to the extent~~
25 ~~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**
5 **engaged in the manufacturing or distribution of opioids to the extent that it**
6 **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~~^[such] funds, and
3 ~~any~~^[such] 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 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 entity~~[companies listed in paragraph (a) of this subsection]~~ and
3 its~~[their]~~ affiliates and subsidiaries to the extent referenced in a settlement
4 agreement, consent judgment, order, or other document that reflects the terms
5 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.