# MEMORANDUM

Substitute
Agenda Item No. 13(A)(1)

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| **TO:** | Honorable Chairman Jose "Pepe" Diaz<br>and Members, Board of County Commissioners | **DATE:** | September 1, 2021 |
| **FROM:** | Geri Bonzon-Keenan<br>County Attorney | **SUBJECT:** | Resolution authorizing Miami-Dade County to join the State of Florida and other local governments as a participant in the Florida Memorandum of Understanding to implement a unified plan relating to the allocation and use of any potential settlement proceeds received under current proposed settlement agreements or future settlement agreements in *In re: National Prescription Opiate* litigation; approving the terms of a Memorandum of Understanding; authorizing the County Mayor to execute said Memorandum of Understanding, and, in consultation with the County Attorney's Office and the Chief Executive Officer of the Public Health Trust or the Chief Executive Officer's designee, to negotiate certain necessary agreements to be presented to the full Board without committee review; authorizing the County Attorney, in consultation with the County Mayor, the Chief Executive Officer of the Public Health Trust or the Chief Executive Officer's designee, and outside counsel, to vote in favor of or against the Chapter 11 bankruptcy plan in *In Re Mallinckrodt plc, et al.*; and directing the County Attorney to provide a report to the Board |

**This substitute differs from the original item as stated in the County Attorney's memorandum.**

The accompanying resolution was prepared and placed on the agenda at the request of the County Attorney and Co-Sponsor Commissioner Sally A. Heyman.

Geri Bonzon-Keenan
County Attorney

GBK/smm

# Memorandum

**Date:** September 1, 2021

**To:** Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

**From:** Geri Bonzon-Keenan
County Attorney

**Subject:** Resolution Relating to (1) the Florida Memorandum of Understanding Regarding the Allocation and Use of Any Settlement Proceeds Received Under Current Proposed Settlement Agreements or Future Settlement Agreements with Pharmaceutical Supply Chain Participants in *In re: National Prescription Opiate Litigation* and (2) the County's Vote on the Mallinckrodt plc, Chapter 11 Bankruptcy Plan

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**This substitute differs from the original item in that it adds provisions authorizing the County Attorney or County Attorney's designee, in consultation with the County Mayor or County Mayor's designee, the Public Health Trust's Chief Executive Officer ("PHT CEO") or the PHT CEO's designee, and outside counsel, to vote in favor of or against the Chapter 11 bankruptcy plan in *In Re Mallinckrodt plc, et al.*, which plan incorporates settlement of all of Mallinckrodt plc ("Mallinckrodt") opioid-related claims, including the County's claims against Mallinckrodt as a creditor in the bankruptcy case.**

## Recommendation

The County Attorney and the County's outside counsel[1] both recommend that the Board:

(1) authorize the County to join the State of Florida (the "State") and other local governments as a participant in the non-binding Florida Memorandum of Understanding (the "MOU") to implement a unified plan related to the allocation and use of any potential settlement proceeds received under current proposed settlement agreements or future settlement agreements in *In re: National Prescription Opiate Litigation*, MDL No. 2804 (N.D. Ohio) ("Opioid MDL"), a lawsuit seeking damages associated with opioid use against several opioid manufacturers, distributors, and certain entities that have engaged in or are engaging in, the manufacture, marketing, promotion, or distribution of an opioid analgesic ("Pharmaceutical Supply Chain Participants");

(2) approve the terms of the MOU; and

[1] The County's outside counsel, chosen by this Board pursuant to Resolution No. R-157-18, consists of Podhurst Orseck, P.A.; Levin, Papantonio, Thomas, Mitchell, Rafferty & Proctor, PA; Baron & Budd, PC; Green, Ketchum, Farrell, Bailey & Tweet, LLP; McHugh Fuller Law Group, PLLC; Hill, Peterson, Carper, Bee & Dietzler, PLLC; and Powell & Majestro, PLLC (collectively, "Podhurst"). The County's outside counsel's recommendation is attached as **Exhibit A**.

(3) authorize the County Mayor or County Mayor's designee to:

a. execute the MOU;

b. in consultation with the County Attorney's Office and the PHT CEO or designee:

i. negotiate a final agreement between the County and the State that formalizes the terms of the MOU in substantially the form attached to the resolution as Attachment A; and

ii. negotiate agreements with those Municipalities[2] necessary for the County to be designated a Qualified County as provided in the MOU.

The deadline by when the County must enter into the necessary agreements with the Municipalities is January 2, 2022, however, this deadline is subject to change. All the foregoing agreements and any current or future settlement agreements will be brought directly to the full Board for its consideration and approval without committee review.

In addition, the County is a creditor in *In re Mallinckrodt plc, et al.,* Case No. 20-12522 (JTD). Mallinckrodt is a specialty pharmaceutical company and the largest generic opioid manufacturer in the United States. Mallinckrodt petitioned for bankruptcy under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware on October 12, 2020, after being named as a defendant in the Opioid MDL. The bankruptcy court entered an order which, in part, authorized Mallinckrodt to solicit votes on the *Joint Plan of Reorganization of Mallinckrodt plc and its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code* (the "Plan").

The Plan seeks to resolve all litigation in which Mallinckrodt is engaged by settlement, including the Opioid MDL, and to restructure Mallinckrodt's capital structure. The Plan incorporates settlement of all opioid-related claims and provides for the creation of a national opioid abatement fund. The Plan is now before the bankruptcy court for final confirmation. Because the County filed a proof of claim in the bankruptcy case, as a creditor, the County is entitled to vote in favor of or against the Plan. If the Bankruptcy Court approves the Plan, the County's claims against Mallinckrodt will be resolved. Thereafter, the agreement and payment structure set forth in the Plan will control the manner in which the County and other creditors receive payments under the Plan.

The deadline to vote on the Plan is currently scheduled to take place on September 10, 2021, but it is uncertain whether the vote on the Plan will proceed on such date. At this time neither Podhurst nor the Plaintiffs' Executive Committee ("PEC")[3] has made a recommendation on the Plan;

[2] Municipalities "mean[s] cities, towns, or villages of a County within the State with a population greater than 10,000 individuals and shall also include cities, towns or villages within the State with a population equal to or less than 10,000 individuals which filed a Complaint in the Opioid MDL or other litigation against Pharmaceutical Supply Chain Participants. The singular 'Municipality' shall refer to a singular of the Municipalities."

[3] The PEC is the group of lawyers representing different or multiple plaintiffs in the Opioid MDL selected by the Court to represent the common interests of all the plaintiffs effectively and efficiently in the Opioid MDL.

however, it is anticipated the County will receive a recommendation prior to the deadline to cast a vote.

Due to the expedited nature of bankruptcy proceedings, a vote on the Plan may be required before the Board's next regularly scheduled meeting. As such, the resolution delegates authority to the County Attorney or her designee to vote on the Plan after consultation with the County Mayor or her designee, the PHT CEO or his designee, and outside counsel and directs the County Attorney to provide a report to the Board regarding the actions taken pursuant to this delegation of authority.

Currently, the PEC has negotiated two proposed draft settlement agreements between some of the plaintiffs and (1) McKesson Corporation, Cardinal Health, Inc., and AmerisourceBergen Corporation (the "Distributor Settlement Agreement"); and (2) Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc. and Janssen Pharmaceutica, Inc. (the "J&J Settlement Agreement") (collectively, the "Settlement Agreements"). Other Pharmaceutical Supply Chain Participant defendants, including but not limited to the retail pharmacy defendants and other opioid manufacturers, are not parties to the proposed Settlement Agreements.

A minimum of 44 states must participate in the proposed Settlement Agreements for the agreements to proceed. The required percentage of participating local governments depends on the number of participating states that have entered into the Settlement Agreements. The State of Florida has indicated that it will be approving the Settlement Agreements. Under the proposed Distributor Settlement Agreement, the State of Florida and its local governments will receive approximately $1,303,586,447.92 payable over 17 years and six months. Under the proposed J&J Settlement, the State and its local governments will receive approximately $299,627,612.33 payable over nine years. Under both Settlement Agreements, the amount that the County could potentially recover varies drastically based on participation and incentives.

To achieve settlement from the greatest number of parties, the Settlement Agreements provide for substantially larger settlement amounts based on incentive payments to those states that: obtain maximum participation in the Settlement Agreements from all local governments within the State; obtain releases from participating local governments; and ensure that non-participating local governments are barred from bringing claims against Pharmaceutical Supply Chain Participants relating to the opioid crisis. These incentive payments account for 45 percent of the amounts received under the Distributor Settlement Agreement and 55 percent of the amounts received under the J&J Settlement Agreement.

The MOU sets forth the framework for the distribution and use of any funds received by the State from the settlement of claims in the Opioid MDL for the benefit of the State and its local governments (including those that have a case in the Opioid MDL (the "Litigating Local Governments") and those that do not (the "Non-Litigating Local Governments")). The MOU will be the framework for the distribution and allocation of funds received by the State from the proposed Settlement Agreements.

Under the MOU, all settlement funds received by the State and its local governments from the Opioid MDL would initially go to the State and then be distributed by a settlement administrator into a City/County Fund, a Regional Fund, and a State Fund, which are described in more detail

below. Miami-Dade County could potentially receive monies from the City/County Fund and the Regional Fund.

If the County is designated a Qualified County under the MOU, in addition to a set payment that the County and cities within the County would each receive from the City/County Fund based on the negotiation class metrics[4], the County would be entitled to administer additional funds allocated to Miami-Dade County for countywide impact from the Regional Fund. Miami-Dade County currently fulfills three of the four requirements set forth in the MOU to be designated a Qualified County.[5] In order to fulfill the last requirement, the County must enter into agreements with a majority of Municipalities (majority is more than 50 percent of the County's total municipal population) related to the expenditure of opioid funds obtained through a settlement covered by the MOU ("Municipal Agreements").[6]

If the County is not deemed a Qualified County, the regional share for Miami-Dade County paid from the Regional Fund to support countywide and municipal services in Miami-Dade County would be managed by Thriving Mind d/b/a South Florida Behavioral Health Network ("Thriving Mind"). Thriving Mind is the County's managing entity selected by and under contract with the Florida Department of Children and Families to manage the daily operational delivery of behavioral health services through a coordinated system of care.

As discussed in more detail below, if the State is unable to obtain releases from its local governments because local governments in the State fail to approve the MOU (and the subsequent formal agreement), the State may seek a judicial declaration that would effectively eliminate any local government's ability to pursue or recover claims in the Opioid MDL or the Legislature may adopt legislation to bar or limit local governments' ability to recover for claims relating to matters of great governmental concern or otherwise pertaining to the opioid epidemic.

[4] In October 2019, the Board approved Resolution No. R-1173-19, which authorized the County to stay in the certified negotiation class in the Opioid MDL. As part of that decision, the County agreed to (1) a predetermined voting methodology to approve any settlement offer; and (2) the distribution formula for allocation of settlement funds (both to the County in general and as between the County and its constituent cities) (the "Negotiation Class Metrics").

[5] Under the MOU, a Qualified County is a county with a population of at least 300,000 individuals and meets all of the following criteria: (a) has an opioid task force of which it is a member or operates in connection with its municipalities or others on a local or regional basis; (b) has an adopted or used abatement plan in response to the opioid epidemic; (c) is currently either providing or is contracting with others to provide substance abuse prevention, recovery, and treatment services to its citizens; and (d) has or enters into an agreement with a majority of Municipalities (more than 50 percent of all the Municipalities' total population) related to the expenditure of the funds.

[6] The following municipalities have passed resolutions finding that "participation in the [MOU] is in the best interests of the City … and its citizens in that such a plan ensures that almost all of the settlement funds go to abate and resolve the opioid epidemic and that each and every city and county receives funds for the harm that it has suffered": City of Coral Gables, City of Hialeah, City of Miami Gardens, and City of South Miami, which are attached hereto as **Exhibit B**. These four cities account for more than 26 percent of the municipal population in Miami-Dade County. Although these resolutions and MOUs are a positive indication as to how these municipalities may proceed, they are not the Municipal Agreements required by the MOU for the County to be deemed a Qualified County.

## Background

## I. The Litigation

On February 6, 2018, this Board selected Podhurst, a litigation team consisting of numerous nationally renowned law firms, as outside counsel to represent the County in the opioid litigation. The Board also directed the County Attorney and Podhurst to pursue litigation to recover damages associated with opioid use in Miami-Dade County. On April 23, 2018, Podhurst filed the County's lawsuit in federal court. The case is currently included in the Opioid MDL in the Northern District of Ohio. The Opioid MDL is the largest MDL in U.S. history and has been described as the most complex civil litigation in U.S. history. Although the case is currently in the Northern District of Ohio, if it does not settle it will be tried in the Southern District of Florida.

### A. Proposed Settlement Agreements

Currently, at least 88 local governments within Florida, as well as the State of Florida itself, have filed suit against numerous entities engaged in the manufacture, marketing, promotion, distribution or dispensing of opioids. The PEC is in ongoing negotiations with some of the defendants and has reached two proposed draft settlement agreements: (1) the Distributor Settlement Agreement; and (2) the J&J Settlement Agreement. The proposed Settlement Agreements were distributed to every state's attorney general (except for West Virginia) giving each state 30 days to indicate acceptance or rejection.

#### 1. Proposed Distributor Settlement Agreement

Under the proposed Distributor Settlement Agreement, the settling states and participating local governments will share up to $21,000,000,000.00 (including fees and certain offsets).[7] The settlement total, excluding fees and offsets, is up to $18,554,013,691.11. From that, the State of Florida and its local governments will receive approximately $1,303,586,447.92 payable over 17 years and six months. The first two payments will occur in 2022. In addition, the Distributor Settlement Agreement provides for injunctive relief. This injunctive relief seeks to address the root cause of the opioid epidemic by changing the behavior of the Pharmaceutical Supply Chain Participants. The settling distributor defendants' behavior regarding opioids will be closely monitored for the next 10 years. Specifically, for the next 10 years, the settling distributors must take measures to detect suspicious orders and problematic customers.[8]

[7] Fees include attorneys' fees and fees for costs, all discussed in more detail below. Offsets include the Native American's tribal share, West Virginia's share, and non-settling states' shares.

[8] Such measures shall include: 1) prescribing a follow-up in response to objectively determined red flags; (2) using sophisticated data-driven systems that detect suspicious opioid orders by pharmacy customers; (3) terminating a pharmacy customer's ability to report shipments and report those customers to state regulators when the pharmacy customer shows certain signs of diversion; (4) prohibiting shipment of suspicious opioid orders and report details about such orders to state regulators; and (5) prohibiting sales staff from influencing decisions related to the identification of suspicious opioid orders.

### 2. Proposed J&J Settlement Agreement

Under the J&J Settlement Agreement, J&J will pay up to $5,000,000,000.00 (including fees and certain offsets) over nine years with up to $3.7 billion paid in the first three years.[9] After deducting fees, costs, and offsets,[10] the J&J settlement value totals $4,264,615,385.00. Florida will receive $299,627,612.33. The first two payments will occur in 2022. Further, pursuant to the J&J Settlement Agreement, J&J will be out of the opioid manufacturing business for the next 10 years and will be enjoined from selling or promoting any opioids for 10 years.[11]

## B. The Need for Approval of the Proposed MOU by Local Governments

### 1. The Proposed Settlement Agreements Incentivize Participation by States and Local Governments

To obtain settlement from the greatest number of parties, the proposed Settlement Agreements are contingent on attaining a critical mass of supporting states and local governments. As an initial matter, a minimum of 44 states must participate in the overall settlement for it to proceed. The required percentage of participating local governments depends on how many states are participating in the overall settlement. The range of required participating local governments is different for Litigating Local Governments and for Non-Litigating Local Governments. For example, if 44 states are participating in the settlement, each state would need to ensure that 95 percent of Litigating Local Governments have agreed to participate, and 90 percent of Non-Litigating Local Governments have agreed to participate before the state can participate in the settlement. As more states participate, the percentage of local governments that must participate also increases.

Because of the need for a critical mass, the proposed Settlement Agreements incentivize states to obtain releases from local governments participating in the Settlement Agreements and ensure that local governments that have not previously sued the distributors and the J&J defendants and are not a part of the Settlement Agreements are barred from bringing claims relating to the opioid crisis. The Settlement Agreements provide for four types of potential incentives. In both of the Settlement Agreements, Incentive A provides for all payments identified in Incentive B and C (potentially a payment of 40 percent of the Distributor Settlement Agreement and 50 percent of the J&J Settlement Agreement) in exchange for almost a full bar to future claims relating to the opioid crisis in Florida against the Distributor defendants and the J&J defendants.[12] If a state

[9] As further described below, these payments could be accelerated as part of an incentive for the State of Florida to take actions to protect the defendants from further additional claims relating to the opioid crisis.

[10] The fees and offsets under the J&J Settlement Agreement fall into the same categories as the fees and offsets under the Distributor Settlement Agreement.

[11] Promoting opioids includes providing financial rewards or disciplining sales representatives based on the volume of opioid sales, lobbying activities related to opioids, and establishing prescription savings programs for opioids.

[12] To qualify for the Incentive A payment, a state must: (1) pass a statute or obtain a court ruling that terminates existing and bars future claims by all local governments in the state; (2) receive releases on behalf of all general purpose subdivisions with populations of 10,000 or more, all larger school and hospital/health districts, and all

qualifies for Incentive A, it does not need to – and cannot – qualify for Incentives B or C. Under both Settlement Agreements, Incentive A provides for payment of all but Bonus D payments in exchange for full peace. In the J&J Settlement Agreement, Incentive A also provides for both the base and Incentive A payments to be accelerated, requiring years one through four of payments to be paid within 90 days of notice of a complete bar of existing and future claims in the state.

Incentive B is equal to 25 percent of the Distributor Settlement Agreement and 30 percent of the J&J Settlement Agreement. Incentive B is earned in both Settlement Agreements by obtaining releases from all Litigating Local Governments in Florida.[13] Incentive C is equal to 15 percent of the Distributor Settlement Agreement and 20 percent of the J&J Settlement Agreement. Incentive C is earned in both Settlement Agreements by getting larger (population of 30,000 or more) Litigating Local Governments and Non-Litigating Local Governments to join the Settlement Agreements.[14]

Incentive D under both Settlement Agreements equals 5 percent and is a delayed bonus payment. In the Distributor Settlement Agreement, Incentive D incentivizes preclusion of additional litigation from local governments that are not a part of the settlement agreement. Similarly, in the J&J Settlement Agreement, Incentive D tries to stop future litigation with certain larger special districts, including school districts, that are not a part of the settlement agreement. Under both Settlement Agreements, assuming the requirement has been met, payments under Incentive D start with payment six.

These incentives makeup a significant portion of the potential recovery under the Settlement Agreements. Up to 45 percent of the amounts received under the Distributor Settlement Agreement and 55 percent of the amounts received under the J&J Settlement Agreement come from the incentive payments. The largest incentives come with a complete bar of existing and future claims by all local governments (including special districts) in the State. This would result in the State of Florida obtaining both Incentive A payments and the bonus payments under Incentive D. Thus, buy-in from local governments, including Miami-Dade County and municipalities within Miami-Dade County, is critical to ensuring the largest recovery and to begin addressing some of the damages caused by the opioid crisis in Florida.

### 2. Risks Associated with Local Governments Not Approving the MOU

There is a potential risk that in the absence of an agreed upon allocation plan, the State may seek a declaration that only the State of Florida, and not its local governments, including the County,

currently Litigating Local Governments from the state; or (3) a combination of the approaches in (1) and (2) that results in a complete bar of existing and future claims.

[13] There is a slightly different sliding scale in each of the Settlement Agreements to determine what percentage the State will receive of Incentive B dependent on the percentage of Litigating Local Governments that provide releases.

[14] In the J&J Settlement Agreement, 5 percent is awarded for getting its 10 largest cities and counties in the State to sign-off on the agreement. Miami-Dade County is one of the 10 largest cities and counties in the State. Besides Miami-Dade County, the remaining largest cities and counties in the State are Broward County, Hillsborough County, Palm Beach County, Orange County, Pinellas County, Duval County/City of Jacksonville, Lee County, Polk County, and Brevard County.

have standing to bring lawsuits on behalf of its citizens, thereby, eliminating the County's ability to pursue its claims in the Opioid MDL. The State of Florida has argued that Florida law may bar the claims of any local governments that opt not to reach an agreement with the Attorney General. Although the State has failed to identify authority that explicitly provides that the Attorney General can supersede already filed claims by the County when the County has independent damages, it has pointed to law that it claims supports its position.[15]

Legislation was filed for consideration during the 2021 session that would have authorized the Attorney General, on behalf of the State, to consolidate, dismiss, release, settle, or take any action that he or she believes to be in the public interest in any civil proceeding in state or federal court pertaining to a matter of great governmental concern. During the 2021 Legislative Session, Representative Toby Rogers Overdorf (R-Stuart) filed House Bill 1053 and Senator Danny Burgess (R-Zephyrhills) filed Senate Bill 102 (the "bills"). These bills would have permitted the Florida Legislature to declare a matter to be of great governmental concern, and then authorized the Attorney General to consolidate, dismiss, release, settle, or take any action that he or she believes to be in the public interest in any civil proceeding in state or federal court pertaining to such matter. In addition, the bills made any award for damages or monetary payment arising from litigation pertaining to a matter of great governmental concern subject to full appropriation by the Legislature. Although the legislation was not adopted, it is anticipated that similar legislation will be filed for consideration during the 2022 session, which convenes on January 11, 2022, with committee meetings starting the week of September 20, 2021.

### C. Use of Settlement Funds Under the Proposed MOU

At least 85 percent of the total monies received from the Settlement Agreements on a nationwide basis must be used for opioid remediation. Fifteen percent of the funds can be used for fees and costs.

Consistent with the proposed Settlement Agreements, under the proposed MOU, all settlement funds (except those used for administrative costs and expenses[16]) received by the State of Florida and its local governments (including the County) must be used for strategies, programming, and services used to expand the availability of treatment for individuals impacted by substance use disorders ("Approved Purposes"). The Approved Purposes are intended to best serve the overall

[15] For example, section 501.207(1)(c), Florida Statutes, authorizes the Florida Attorney General to bring "[a]n action to enjoin any person who has violated, is violating, or is otherwise likely to violate," the Florida Deceptive and Unfair Trade Practices Act (one of the claims the County has filed in the Opioid MDL). In addition, the Florida Supreme Court has found that the State may bind its citizens with litigation advanced by the State, if the State is suing in its *parens patriae* capacity (*i.e.*, litigating the rights or interests common to the public at large) and thereby representing the citizens of the State. *See Engle v. Liggett Group, Inc.*, 945 So. 2d 1246, 1260 (Fla. 2006). Federal law also provides some support for the Attorney General's argument. The Southern District of Florida has held that, "[a]pplicable Florida law states that a judgment in an action brought against a public entity that adjudicates matters of general interest to the citizens of the jurisdiction is binding on all citizens of that jurisdiction[.]" *Eggers v. City of Key West*, Case No. 05-10093-CIV-HIGHSMITH, 2007 WL 0702450 at *3 (S.D. Fla. Feb. 26, 2007). *See also State of Fla. ex. rel. Shevin v. Exxon Corp.*, 526 F.2d 266, 275 (5th Cir. 1976) (finding that the Florida attorney general retains common law powers and that those powers extend to the institution of suits under federal law without specific authorization of individual local government entities who have sustained the legal injuries asserted).

[16] These administrative costs and expenses are described below in Section F.

purpose of the Opioid MDL, *i.e*, to abate the continuing public health crisis of opioid addiction within our community.[17] In addition, the County and the State will commit to using an unspecified percentage of the settlement funds for programs and strategies prioritized by the U.S. Department of Justice and/or the U.S. Department of Health and Human Services ("Core Strategies").[18] The Core Strategies are very similar to the Approved Purposes and include all the items described above.

### D. Distribution of Settlement Funds Under the Proposed MOU

Under the MOU, all settlement funds received by Florida and its local governments from the Opioid MDL would initially go to the State and then be distributed by a settlement administrator into the following funds: (1) City/County Fund; (2) Regional Fund; and (3) State Fund, which are described below. Miami-Dade County could potentially receive monies from the City/County Fund and the Regional Fund.

**(1)** **City/County Fund:** Fifteen percent of the funds will be placed into a City/County fund to directly benefit all counties and municipalities that have entered the MOU, including Miami-Dade County. The amount to be distributed to each county and municipality will be determined by the Negotiation Class Metrics or another metric agreed upon in writing by a county and a municipality. Any local government that is not within the definition of a County or Municipality under the MOU *and* that does not execute a release as a part of a settlement (whether under the current proposed draft Settlement Agreements or any future settlement agreement) shall have its share of the City/County Fund go to the County in which it is located. If needed, the Expense Fund described below will be funded exclusively from the City/County Fund.

**(2)** **Regional Fund:** A percentage of funds based on a sliding scale available in any year will be placed into a Regional Fund, as follows: Years 1-6: 40 percent, Years 7-9: 35 percent, Years 10-12: 34 percent, Years 13-15: 33 percent, and Years 16-18: 30 percent. The amount to be distributed to each County yearly will be determined by the Negotiation Class Metrics or other metrics that the parties agree upon. The Regional Funds can be used by each county that meets the MOU's definition of "Qualified County." Under the MOU, a Qualified County is a county

[17] Some of the Approved Purposes highlighted by the MOU include funding for the purchase of Naloxone or other FDA-approved drugs to reverse opioid overdoses; medication-assisted treatment distribution and other opioid-related treatment; screening, treatment, and recovery services for pregnant and postpartum women; expanding treatment for neonatal abstinence syndrome; treatment for incarcerated populations; expansion of warm hand-off programs and recovery services; prevention program; and expanding syringe service programs.

[18] The State is negotiating with the United States to limit or reduce the United States' ability to recover or recoup monies from the State and local governments in exchange for prioritizing funds to reach certain projects. The United States government did not take a percentage of the funds obtained through the tobacco litigation, and the State is hopeful for the same result here. If no agreement is reached, there may not be a requirement that a percentage of the funds be used for Core Strategies. However, if there is such a requirement, because the Core Strategies and Approved Purposes are virtually identical, it will likely have a nominal impact because the abatement strategies will mostly remain the same.

with a population of at least 300,000 individuals and meets all of the following criteria: (a) has an opioid task force of which it is a member or operates in connection with its municipalities or others on a local or regional basis; (b) has an adopted or used abatement plan in response to the opioid epidemic; (c) is currently either providing or is contracting with others to provide substance abuse prevention, recovery, and treatment services to its citizens; and (d) has or enters into an agreement with a majority of Municipalities (more than 50 percent of all the Municipalities' total population) related to the expenditure of the funds.

Miami-Dade County currently fulfills the first three requirements to become a Qualified County. If the County satisfies the last requirement such that it is deemed a Qualified County, the County would be entitled to administer and allocate the funds in accordance with approved agreements for funding of Approved Purposes. If the County does not qualify as a Qualified County, the regional share for the County will be paid to the managing entities (corporations selected by and under contracts with the Florida Department of Children and Families to manage the daily operational delivery of behavioral health services through a coordinated system of care) providing service for that county. Currently, the managing entity for Miami-Dade County is Thriving Mind.

**(3)** **State Fund:** The remainder of the funds after deducting costs and expenses will be spent by the State on Approved Purposes.

### E. Opioid Abatement Task Force or Council

Pursuant to the proposed MOU, the State will create an opioid abatement task force or council (the "Task Force") to advise the State and local governments on priorities that should be addressed as part of the opioid epidemic and to review how funds have been spent and the results achieved. The Task Force will consist of 10 members, five appointed by the State and five from local governments selected by the Florida Association of Counties and the Florida League of Cities. Two county representatives, one from a Qualified County and one from a county that is not a Qualified County, will be appointed by or through the Florida Association of Counties. Two municipality representatives will be appointed by the Florida League of Cities. The final local government representative will alternate every two years between being a county representative (appointed by or through the Florida Association of Counties) or a municipality representative (appointed by or through the Florida League of Cities). One county representative must be from a county with a population of less than 200,000 and one must be from a county with a population more than 200,000. Each member of the Task Force will serve for a two-year term. The Attorney General or his or her designee will chair the Task Force, which will publish an annual report containing information on how monies were spent the previous fiscal year and recommendations to the State and local governments for how monies should be spent in the coming fiscal year.

### F. Attorneys' Fees, Litigation Costs and Expenses, and Administrative Costs

Attorneys' fees, litigation costs and expenses, and the State's and the County's administrative costs are addressed in the MOU. The MOU encourages the parties to make efforts to require defendants as part of any settlement agreement to pay for attorneys' fees and costs of litigation. In the event

a fund sufficient to pay the contingency fees for attorneys representing local governments is not included as a part of any settlement agreement, the MOU creates an additional expense fund for the purpose of paying the hard costs and attorneys' fees of Litigating Local Governments (the "Expense Fund"). The source of funds, to the extent needed, for the Expense Fund will be sourced exclusively from the City/County Fund.[19]

In addition to the litigation costs and attorneys' fees provisions, the proposed MOU permits the State to take up to a 5 percent administrative fee from the State Fund and from any Regional Fund that it administers for counties that are not Qualified Counties. Each Qualified County may take up to a 5 percent administrative fee from its share of the Regional Funds.

[19] Although the amount of the Expense Fund will be calculated based on the entirety of payments due to the City/County Fund over a 10-to-18-year period, the Expense Fund shall be funded entirely from payments during the first two years of each settlement. The MOU provides a process for an attorney to recover funds from the Expense Fund.

**EXHIBIT A**

PodhurstOrseck
TRIAL & APPELLATE LAWYERS

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Robert C. Josefsberg
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August 25, 2021

Geri Bonzon-Keenan
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Re: Recommendation re: Florida Attorney General's Proposed Memorandum of Understanding on Allocation Agreement in Florida

Dear Ms. Bonzon-Keenan:

As you know, our firm Podhurst Orseck, P.A., along with Levin, Papantonio, Thomas, Mitchell, Rafferty & Proctor, P.A.; Baron & Budd, PC; Greene, Ketchum, Farrell, Bailey & Tweet, LLP; McHugh Fuller Law Group, PLLC; Hill, Peterson, Carper, Bee & Dietzler, PLLC; and Powell & Majestro, PLLC (collectively "Counsel"), represents Miami-Dade County (the "County") in its claims against several opioid manufacturers and distributors to recover damages associated with opioid abuse in the County caused by these manufacturers' and distributors' wrongful conduct. The County filed suit in the Southern District of Florida on April 23, 2018, and the action was transferred to the Opioid multidistrict litigation ("MDL") court in the Northern District of Ohio before Judge Dan Polster on May 8, 2018. The MDL's Plaintiff's Executive Committee ("PEC") represents the interest of all litigating municipalities and cities in the MDL and includes members of Counsel.

The Florida Attorney General ("AG"), along with other attorneys general from other states, have been in settlement negotiations with various defendants in the Opioid Multidistrict Litigation ("MDL"). These defendants, which include various opioid manufacturers and distributors ("Defendants"), have made clear their preference of settling with states that can provide buy in from their political subdivisions. Defendants' settlement discussions with the Florida AG's Office appear to be nearing more advanced stages, and Defendants are conditioning benefits and dollar amounts of any settlement agreement on each state's ability to obtain buy-in from its political subdivisions. Settlement amounts are maximized, the greater the buy in from each state's political subdivisions, the greater the settlement amount to the state and its subdivisions.

During the 2021 session, bills were introduced into the Florida legislature with the goal of appropriating Florida's litigating political subdivisions' claims in the Opioid MDL. The Florida AG's office maintains it already has the authority under the current operable legislation to settle its political subdivisions' claims and that these newly introduced bills simply would make that authority clearer.

With the above in mind, outside counsel for almost all of Florida's litigating political subdivisions have been actively involved in negotiating an allocation agreement with the Florida AG. The most recent version of the proposed agreement is set out in the attached Memorandum of Understanding ("MOU") and is intended, once in its final form, to govern the distribution of any settlement proceeds obtained through the Purdue Pharma L.P. ("Purdue") bankruptcy, the Mallinckrodt PLC ("Mallinckrodt") bankruptcy, and the potential deals pertaining to Johnson & Johnson ("J&J"), three distributors (Cardinal Health, Inc., McKesson Corp., and AmerisourceBergen Corp. (collectively referred to as the "Distributors")), as well as any additional settlements that may occur at a later date with defendants in the Opioid MDL.

We believe that the MOU and allocation agreement reflect a reasonable compromise between the State and its political subdivisions, given the status of the opioid litigation, the likely structure of any resolution, the potential litigation risks to Miami-Dade County in the absence of such an agreement, and the bills before the Florida legislature. We are available to meet with you or the County's Board of Commissioners (the "Board") to provide any further explanation or address any questions. The PEC has advised that you recommend this proposal to the County's Board of Commissioners. As the County's individual attorneys, we agree with the PEC's recommendation.

Sincerely,

PODHURST ORSECK, P.A.

Peter Prieto

**PROPOSAL**
**MEMORANDUM OF UNDERSTANDING**

Whereas, the people of the State of Florida and its communities have been harmed by misfeasance, nonfeasance and malfeasance committed by certain entities within the Pharmaceutical Supply Chain;

Whereas, the State of Florida, through its Attorney General, and certain Local Governments, through their elected representatives and counsel, are separately engaged in litigation seeking to hold Pharmaceutical Supply Chain Participants accountable for the damage caused by their misfeasance, nonfeasance and malfeasance;

Whereas, the State of Florida and its Local Governments share a common desire to abate and alleviate the impacts of that misfeasance, nonfeasance and malfeasance throughout the State of Florida;

Whereas, it is the intent of the State of Florida and its Local Governments to use the proceeds from Settlements with Pharmaceutical Supply Chain Participants to increase the amount of funding presently spent on opioid and substance abuse education, treatment and other related programs and services, such as those identified in Exhibits A and B, and to ensure that the funds are expended in compliance with evolving evidence-based "best practices";

Whereas, the State of Florida and its Local Governments, subject to the completion of formal documents that will effectuate the Parties' agreements, enter into this Memorandum of Understanding ("MOU") relating to the allocation and use of the proceeds of Settlements described herein; and

Whereas, this MOU is a preliminary non-binding agreement between the Parties, is not legally enforceable, and only provides a basis to draft formal documents which will effectuate the Parties' agreements.

**A. Definitions**

As used in this MOU:

1. "Approved Purpose(s)" shall mean forward-looking strategies, programming and services used to expand the availability of treatment for individuals impacted by substance use disorders, to: (a) develop, promote, and provide evidence-based substance use prevention strategies; (b) provide substance use avoidance and awareness education; (c) decrease the oversupply of licit and illicit opioids; and (d) support recovery from addiction. Approved Purposes shall include, but are not limited to, the opioid abatement strategies listed on Exhibits A and B which are incorporated herein by reference.

2. "Local Governments" shall mean all counties, cities, towns and villages located within the geographic boundaries of the State.

3. "Managing Entities" shall mean the corporations selected by and under contract with the Florida Department of Children and Families or its successor ("DCF") to manage the

daily operational delivery of behavioral health services through a coordinated system of care. The singular "Managing Entity" shall refer to a singular of the Managing Entities.

4. "County" shall mean a political subdivision of the state established pursuant to s. 1, Art. VIII of the State Constitution.

5. "Municipalities" shall mean cities, towns, or villages of a County within the State with a Population greater than 10,000 individuals and shall also include cities, towns or villages within the State with a Population equal to or less than 10,000 individuals which filed a Complaint in this litigation against Pharmaceutical Supply Chain Participants. The singular "Municipality" shall refer to a singular of the Municipalities.

6. ''Negotiating Committee" shall mean a three-member group comprised by representatives of the following: (1) the State; and (2) two representatives of Local Governments of which one representative will be from a Municipality and one shall be from a County (collectively, "Members") within the State. The State shall be represented by the Attorney General or her designee.

7. "Negotiation Class Metrics" shall mean those county and city settlement allocations which come from the official website of the Negotiation Class of counties and cities certified on September 11, 2019 by the U.S. District for the Northern District of Ohio in *In re National Prescription Opiate Litigation*, MDL No. 2804 (N.D. Ohio). The website is located at https://allocationmap.iclaimsonline.com.

8. "Opioid Funds" shall mean monetary amounts obtained through a Settlement as defined in this MOU.

9. "Opioid Related" shall have the same meaning and breadth as in the agreed Opioid Abatement Strategies attached hereto as Exhibits A or B.

10. "Parties" shall mean the State and Local Governments. The singular word "Party" shall mean either the State or Local Governments.

11. "PEC" shall mean the Plaintiffs' Executive Committee of the National Prescription Opiate Multidistrict Litigation pending in the United States District Court for the Northern District of Ohio.

12. "Pharmaceutical Supply Chain" shall mean the process and channels through which Controlled Substances are manufactured, marketed, promoted, distributed or dispensed.

13. "Pharmaceutical Supply Chain Participant" shall mean any entity that engages in, or has engaged in the manufacture, marketing, promotion, distribution or dispensing of an opioid analgesic.

14. "Population" shall refer to published U.S. Census Bureau population estimates as of July 1, 2019, released March 2020, and shall remain unchanged during the term of this MOU. These estimates can currently be found at https://www.census.gov

15. "Qualified County" shall mean a charter or non-chartered county within the State that: has a Population of at least 300,000 individuals and (a) has an opioid taskforce of which it is a member or operates in connection with its municipalities or others on a local or regional basis; (b) has an abatement plan that has been either adopted or is being utilized to respond to the opioid epidemic; (c) is currently either providing or is contracting with others to provide substance abuse prevention, recovery, and treatment services to its citizens; and (d) has or enters into an agreement with a majority of Municipalities (Majority is more than 50% of the Municipalities' total population) related to the expenditure of Opioid Funds. The Opioid Funds to be paid to a Qualified County will only include Opioid Funds for Municipalities whose claims are released by the Municipality or Opioid Funds for Municipalities whose claims are otherwise barred.

16. "SAMHSA" shall mean the U.S. Department of Health & Human Services, Substance Abuse and Mental Health Services Administration.

17. "Settlement" shall mean the negotiated resolution of legal or equitable claims against a Pharmaceutical Supply Chain Participant when that resolution has been jointly entered into by the State and Local Governments or a settlement class as described in (B)(1) below.

18. "State" shall mean the State of Florida.

**B. Terms**

1. **Only Abatement -** Other than funds used for the Administrative Costs and Expense Fund as hereinafter described in paragraph 6 and paragraph 9, respectively), all Opioid Funds shall be utilized for Approved Purposes. To accomplish this purpose, the State will either file a new action with Local Governments as Parties or add Local Governments to its existing action, sever settling defendants, and seek entry of a consent order or other order binding both the State, Local Governments, and Pharmaceutical Supply Chain Participant(s) ("Order"). The Order may be part of a class action settlement or similar device. The Order shall provide for continuing jurisdiction of a state court to address non-performance by any party under the Order. Any Local Government that objects to or refuses to be included under the Order or entry of documents necessary to effectuate a Settlement shall not be entitled to any Opioid Funds and its portion of Opioid Funds shall be distributed to, and for the benefit of, the other Local Governments.

2. **Avoid Claw Back and Recoupment** - Both the State and Local Governments wish to maximize any Settlement and Opioid Funds. In addition to committing to only using funds for the Expense Funds, Administrative Costs and Approved Purposes, both Parties will agree to utilize a percentage of funds for the core strategies highlighted in Exhibit A. Exhibit A contains the programs and strategies prioritized by the U.S. Department of Justice and/or the U.S. Department of Health & Human Services ("Core Strategies"). The State is trying to obtain the United States' agreement to limit or reduce the United States' ability to recover or recoup monies from the State and Local Government in exchange for prioritization of funds to certain projects. If no agreement is reached with the United States, then there will be no requirement that a percentage be utilized for Core Strategies.

3. **Distribution Scheme** - All Opioid Funds will initially go to the State, and then be distributed according to the following distribution scheme. The Opioid Funds will be divided into three funds after deducting costs of the Expense Fund detailed in paragraph 9 below:

(a) City/County Fund- The city/county fund will receive 15% of all Opioid Funds to directly benefit all Counties and Municipalities. The amounts to be distributed to each County and Municipality shall be determined by the Negotiation Class Metrics or other metrics agreed upon, in writing, by a County and a Municipality. For Local Governments that are not within the definition of County or Municipality, those Local Governments may receive that government's share of the City/County Fund under the Negotiation Class Metrics, if that government executes a release as part of a Settlement. Any Local Government that is not within the definition of County or Municipality and that does not execute a release as part of a Settlement shall have its share of the City/County Fund go to the County in which it is located.

(b) Regional Fund- The regional fund will be subdivided into two parts.

(i) The State will annually calculate the share of each County within the State of the regional fund utilizing the sliding scale in section 4 of the allocation contained in the Negotiation Class Metrics or other metrics that the Parties agree upon.

(ii) For Qualified Counties, the Qualified County's share will be paid to the Qualified County and expended on Approved Purposes, including the Core Strategies identified in Exhibit A, if applicable.

(iii) For all other Counties, the regional share for each County will be paid to the Managing Entities providing service for that County. The Managing Entities will be required to expend the monies on Approved Purposes, including the Core Strategies. The Managing Entities shall endeavor to the greatest extent possible to expend these monies on counties within the State that are non-Qualified Counties and to ensure that there are services in every County.

(c) State Fund - The remainder of Opioid Funds after deducting the costs of the Expense Fund detailed in paragraph 9, the City/County Fund and the Regional Fund will be expended by the State on Approved Purposes, including the provisions related to Core Strategies, if applicable.

(d) To the extent that Opioid Funds are not appropriated and expended in a year by the State, the State shall identify the investments where settlement funds will be deposited. Any gains, profits, or interest accrued from the deposit of the Opioid Funds to the extent that any funds are not appropriated and expended within a calendar year, shall be the sole property of the Party that was entitled to the initial deposit.

4. Regional Fund Sliding Scale- The Regional Fund shall be calculated by utilizing the following sliding scale of the Opioid Funds available in any year:

A. Years 1-6: 40%

B. Years 7-9: 35%

C. Years 10-12: 34%

D. Years 13-15: 33%

E. Years 16-18: 30%

5. Opioid Abatement Taskforce or Council - The State will create an Opioid Abatement Taskforce or Council (sometimes hereinafter "Taskforce" or "Council") to advise the Governor, the Legislature, Florida's Department of Children and Families ("DCF"), and Local Governments on the priorities that should be addressed as part of the opioid epidemic and to review how monies have been spent and the results that have been achieved with Opioid Funds.

(a) Size - The Taskforce or Council shall have ten Members equally balanced between the State and the Local Governments.

(b) Appointments Local Governments - Two Municipality representatives will be appointed by or through Florida League of Cities. Two county representatives, one from a Qualified County and one from a county within the State that is not a Qualified County, will be appointed by or through the Florida Association of Counties. The final representative will alternate every two years between being a county representative (appointed by or through Florida Association of Counties) or a Municipality representative (appointed by or through the Florida League of Cities). One Municipality representative must be from a city of less than 50,000 people. One county representative must be from a county less than 200,000 people and the other county representative must be from a county whose population exceeds 200,000 people.

(c) Appointments State -

(i) The Governor shall appoint two Members.

(ii) The Speaker of the House shall appoint one Member.

(iii) The Senate President shall appoint one Member.

(iv) The Attorney General or her designee shall be a Member.

(d) Chair - The Attorney General or designee shall be the chair of the Taskforce or Council.

(e) Term - Members will be appointed to serve a two-year term.

(f) Support - DCF shall support the Taskforce or Council and the Taskforce or Council shall be administratively housed in DCF.

(g) Meetings - The Taskforce or Council shall meet quarterly in person or virtually using communications media technology as defined in section 120.54(5)(b)(2), Florida Statutes.

(h) Reporting - The Taskforce or Council shall provide and publish a report annually no later than November 30th or the first business day after November 30th, if November 30th falls on a weekend or is otherwise not a business day. The report shall contain information on how monies were spent the previous fiscal year by the State, each of the Qualified Counties, each of the Managing Entities, and each of the Local Governments. It shall also contain recommendations to the Governor, the Legislature, and Local Governments for priorities among the Approved Purposes for how monies should be spent the coming fiscal year to respond to the opioid epidemic.

(i) Accountability - Prior to July 1st of each year, the State and each of the Local Governments shall provide information to DCF about how they intend to expend Opioid Funds in the upcoming fiscal year. The State and each of the Local Government shall report its expenditures to DCF no later than August 31st for the previous fiscal year. The Taskforce or Council will set other data sets that need to be reported to DCF to demonstrate the effectiveness of Approved Purposes. All programs and expenditures shall be audited annually in a similar fashion to SAMHSA programs. Local Governments shall respond and provide documents to any reasonable requests from the State for data or information about programs receiving Opioid Funds.

(j) Conflict of Interest - All Members shall adhere to the rules, regulations and laws of Florida including, but not limited to, Florida Statute §112.311, concerning the disclosure of conflicts of interest and recusal from discussions or votes on conflicted matters.

6. **Administrative Costs**- The State may take no more than a 5% administrative fee from the State Fund ("Administrative Costs") and any Regional Fund that it administers for counties that are not Qualified Counties. Each Qualified County may take no more than a 5% administrative fee from its share of the Regional Funds.

7. **Negotiation of Non-Multistate Settlements** - If the State begins negotiations with a Pharmaceutical Supply Chain Participant that is separate and apart from a multi-state negotiation, the State shall include Local Governments that are a part of the Negotiating Committee in such negotiations. No Settlement shall be recommended or accepted without the affirmative votes of both the State and Local Government representatives of the Negotiating Committee.

8. **Negotiation of Multistate or Local Government Settlements** - To the extent practicable and allowed by other parties to a negotiation, both Parties agree to communicate with

members of the Negotiation Committee regarding the terms of any other Pharmaceutical Supply Chain Participant Settlement.

9. **Expense Fund** - The Parties agree that in any negotiation every effort shall be made to cause Pharmaceutical Supply Chain Participants to pay costs of litigation, including attorneys' fees, in addition to any agreed to Opioid Funds in the Settlement. To the extent that a fund sufficient to pay the entirety of all contingency fee contracts for Local Governments in the State of Florida is not created as part of a Settlement by a Pharmaceutical Supply Chain Participant, the Parties agree that an additional expense fund for attorneys who represent Local Governments (herein "Expense Fund") shall be created out of the City/County fund for the purpose of paying the hard costs of a litigating Local Government and then paying attorneys' fees.

(a) The Source of Funds for the Expense Fund- Money for the Expense Fund shall be sourced exclusively from the City/County Fund.

(b) The Amount of the Expense Fund- The State recognizes the value litigating Local Governments bring to the State of Florida in connection with the Settlement because their participation increases the amount Incentive Payments due from each Pharmaceutical Supply Chain Participant. In recognition of that value, the amount of funds that shall be deposited into the Expense fund shall be contingent upon on the percentage of litigating Local Government participation in the Settlement, according to the following table:

| Litigating Local Government Participation in the Settlement (by percentage of the population) | Amount that shall be paid into the Expense Fund from (and as a percentage of) the City/County fund |
|---|---|
| 96 to 100% | 10% |
| 91 to 95% | 7.5% |
| 86 to 90% | 5% |
| 85% | 2.5% |
| Less than 85% | 0% |

If fewer than 85% percent of the litigating Local Governments (by population) participate, then the Expense Fund shall not be funded, and this Section of the MOU shall be null and void.

(c) The Timing of Payments into the Expense Fund- Although the amount of the Expense Fund shall be calculated based on the entirety of payments due to the City/County fund over a ten to eighteen year period, the Expense Fund shall be funded entirely from payments made by Pharmaceutical Supply Chain Participants during the first two years of the Settlement. Accordingly, to offset the amounts being paid from the City/County to the Expense Fund in the first two years, Counties or Municipalities may borrow from the Regional Fund during the

first two years and pay the borrowed amounts back to the Regional Fund during years three, four, and five.

For the avoidance of doubt, the following provides an illustrative example regarding the calculation of payments and amounts that may be borrowed under the terms of this MOU, consistent with the provisions of this Section:

| | |
|---|---|
| Opioid Funds due to State of Florida and Local Governments (over 10 to 18 years): | $1,000 |
| Litigating Local Government Participation: | 100% |
| City/County Fund (over 10 to 18 years): | $150 |
| Expense Fund (paid over 2 years): | $15 |
| Amount Paid to Expense Fund in 1st year: | $7.5 |
| Amount Paid to Expense Fund in 2nd year | $7.5 |
| Amount that may be borrowed from Regional Fund in 1st year: | $7.5 |
| Amount that may be borrowed from Regional Fund in 2nd year: | $7.5 |
| Amount that must be paid back to Regional Fund in 3rd year: | $5 |
| Amount that must be paid back to Regional Fund in 4th year: | $5 |
| Amount that must be paid back to Regional Fund in 5th year: | $5 |

(d) Creation of and Jurisdiction over the Expense Fund- The Expense Fund shall be established, consistent with the provisions of this Section of the MOU, by order of the Circuit Court of the Sixth Judicial Circuit in and for Pasco County, West Pasco Division New Port Richey, Florida, in the matter of *The State of Florida, Office of the Attorney General, Department of Legal Affairs v. Purdue Pharma L.P., et al.*, Case No. 2018-CA-001438 (the "Court"). The Court shall have jurisdiction over the Expense Fund, including authority to allocate and disburse amounts from the Expense Fund and to resolve any disputes concerning the Expense Fund.

(e) Allocation of Payments to Counsel from the Expense Fund- As part of the order establishing the Expense Fund, counsel for the litigating Local Governments shall seek to have the Court appoint a third-neutral to serve as a special master for purposes of allocating the Expense Fund. Within 30 days of entry of the order appointing a special master for the Expense Fund, any counsel who intend to seek an award from the Expense Fund shall provide the copies of their contingency fee contracts to the special master. The special master shall then build a mathematical model, which shall be based on each litigating Local Government's share under the Negotiation Class Metrics and the rate set forth in their contingency contracts, to calculate a proposed award for each litigating Local Government who timely provided a copy of its contingency contract.

10. **Dispute resolution-** Any one or more of the Local Governments or the State may object to an allocation or expenditure of Opioid Funds solely on the basis that the allocation or expenditure at issue (a) is inconsistent with the Approved Purposes; (b) is inconsistent with the distribution scheme as provided in paragraph 3, or (c) violates the limitations set forth herein

with respect to administrative costs or the Expense Fund. There shall be no other basis for bringing an objection to the approval of an allocation or expenditure of Opioid Funds.

**CITY OF CORAL GABLES, FLORIDA**

**RESOLUTION NO.**

A RESOLUTION OF THE CITY COMMISSION AUTHORIZING THE CITY OF CORAL GABLES TO JOIN THE STATE OF FLORIDA AND OTHER LOCAL GOVERNMENTAL UNITS AS A PARTICIPANT IN THE FLORIDA MEMORANDUM OF UNDERSTANDING AND FORMAL AGREEMENTS IMPLEMENTING A UNIFIED PLAN FOR THE SETTLEMENT OF THE OPIOID LITIGATION.

**WHEREAS**, the State of Florida and the cities and counties therein, including the City of Coral Gables, have suffered harm as a result of the opioid epidemic; and

**WHEREAS**, in accordance with Resolution No. 2018-154, the City of Coral Gables filed a complaint for (1) violation of the Florida Deceptive and Unfair Trade Practices Act, (2) public nuisance (3) negligence, and (4) unjust enrichment, on June 26, 2018 in the United States District Court for the Southern District of Florida; and

**WHEREAS**, on July 20, 2018, the Court entered an order transferring the City's case to a multi-district litigation, In re: National Prescription Opiate Litigation, MDL No. 2804 (N.D. Ohio), and the City's case was assigned case number 1:18-op-45852; and

**WHEREAS**, the State of Florida has filed an action pending in Pasco County, Florida, and a number of other lawsuits filed by Florida cities and counties have also been transferred to In re: National Prescription Opiate Litigation, MDL No. 2804 (N.D. Ohio) (the "Opioid Litigation"); and

**WHEREAS**, the State of Florida and lawyers representing certain various local governments involved in the Opioid Litigation have proposed a unified plan for the allocation and use of prospective settlement dollars from opioid related litigation; and

**WHEREAS**, the Florida Memorandum of Understanding attached hereto as Exhibit A (the "Florida Plan") sets forth a framework of a unified plan for the proposed allocation and use of opioid settlement proceeds and it is anticipated that formal agreements implementing the Florida Plan will be entered into at a future date; and

**WHEREAS**, participation in the Florida Plan by a large majority of Florida cities and counties will materially increase the amount of funds to Florida and should improve Florida's relative bargaining position during additional settlement negotiations; and

**WHEREAS**, failure to participate in the Florida Plan will reduce funds available to the State, the City of Coral Gables, and every other Florida city and county; and

**WHEREAS**, the Florida Memorandum of Understanding is intended to govern the distribution of settlement proceeds between the State of Florida, the City of Coral Gables and other subdivisions that are obtained through the Purdue Pharma L.P. bankruptcy, the Mallinckrodt PLC

bankruptcy, and any additional settlements obtained related to the opioid litigation, but will not affect the City's lawsuit against non-settling defendants;

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF CORAL GABLES:**

**SECTION 1**. That the foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution upon adoption hereof.

**SECTION 2.** That the City Commission finds that participation in the Florida Plan is in the best interest of the City of Coral Gables and its citizens in that such a plan ensures that almost all of the settlement funds go to abate and resolve the opioid epidemic and each and every city and county receives funds for the harm that it has suffered.

**SECTION 3.** That the City Commission hereby expresses its support of a unified plan for the allocation and use of opioid settlement proceeds as generally described in the Florida Plan, attached hereto as Exhibit "A."

**SECTION 4**. That the City Attorney and/or City Manager are hereby authorized to execute any formal agreements, including the Florida Memorandum of Understanding, implementing a unified plan for the allocation and use of opioid settlement proceeds that is not substantially inconsistent with the Florida Plan and this Resolution.

**SECTION 5.** The City Clerk is hereby directed to furnish a copy of this Resolution to the Florida League of Cities and to the Office of Attorney General Ashley Moody.

**SECTION 6**. That this Resolution shall be effective upon the date of its passage and adoption herein.

PASSED AND ADOPTED THIS ELEVENTH DAY OF MAY, A.D. 2021.

**RESOLUTION NO.** 2021-093

RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AUTHORIZING THE CITY TO JOIN WITH THE STATE OF FLORIDA AND OTHER LOCAL GOVERNMENTAL UNITS AS A PARTICIPANT IN THE FLORIDA MEMORANDUM OF UNDERSTANDING AND FORMAL AGREEMENTS IMPLEMENTING A UNIFIED PLAN FOR THE ALLOCATION AND USE OF OPIOID LITIGATION SETTLEMENT PROCEEDS; APPROVING THE TERMS OF THE MEMORANDUM OF UNDERSTANDING; AUTHORIZING THE MAYOR, AND THE CITY CLERK AS ATTESTING WITNESS, ON BEHALF OF THE CITY TO EXECUTE THE MEMORANDUM OF UNDERSTANDING, ANY FORMAL IMPLEMENTING AGREEMENT AND ANY OTHER NECESSARY AND CUSTOMARY DOCUMENTS IN FURTHERANCE HEREOF; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF.

**WHEREAS**, the City of Hialeah has suffered harm from the opioid epidemic; and

**WHEREAS**, the City of Hialeah recognizes that the entire State of Florida has suffered harm as a result from the opioid epidemic; and

**WHEREAS**, the State of Florida has filed an action pending in Pasco County, Florida, and a number of Florida Cities and Counties have also filed an action *In re: National Prescription Opiate Litigation*, MDL No. 2804 (N.D. Ohio) (the "Opioid Litigation");

**WHEREAS**, the City of Hialeah is not a litigating participant in that action and other than through its participation with the State is foreclosed from any opportunity to recover for any losses suffered; and

**WHEREAS**, the State of Florida and lawyers representing certain various local governments involved in the Opioid Litigation have proposed a unified plan for the allocation and use of prospective settlement dollars from opioid related litigation; and

**WHEREAS**, the Florida Memorandum of Understanding (the "Florida Plan") sets forth a framework of a unified plan for the proposed allocation and use of opioid settlement proceeds and

it is anticipated that formal agreements implementing the Florida Plan will be entered into at a future date; and

**WHEREAS**, participation in the Florida Plan by a large majority of Florida cities and counties will materially increase the amount of funds to Florida and should improve Florida's relative bargaining position during additional settlement negotiations; and

**WHEREAS**, failure to participate in the Florida Plan will reduce funds available to the State, the City of Hialeah, and every other Florida city and county.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** The foregoing facts and recitations contained in the preamble to this resolution are hereby incorporated and adopted by reference as if fully set forth herein.

**Section 2:** The City finds that participation in the Florida Plan would be in the best interest of the city and its citizens in that such a plan ensures that almost all of the settlement funds go to abate and resolve the opioid epidemic and each and every city and county receives funds for the harm that it has suffered.

**Section 3:** The City hereby expresses its support of a unified plan for the allocation and use of opioid settlement proceeds as generally described in the Florida Plan, attached hereto as Exhibit "A."

**Section 4:** The Mayor and the City Clerk, as attesting witness, are hereby authorized to execute the Florida Plan in substantially the form contained in Exhibit "A", any formal agreement implementing a unified plan for the allocation and use of opioid settlement proceeds and all other necessary and customary documents in furtherance thereof on behalf of the City.

**Section 5:** The City Clerk is hereby directed to furnish a certified copy of this resolution to the State Attorney General Ashley Moody c\o John M. Guard The Capitol, PL-01 Tallahassee, FL 32399-1050.

**Section 6:** This resolution shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED AND ADOPTED this 13 day of July, 2021.

Jesus Tundidor
Council President

Attest:

Marbelys Fatjo, City Clerk

Approved on this 22 day of July, 2021.

Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

Lorena E. Bravo, City Attorney

Resolution was adopted by 4-0-3 vote with Councilmembers, Cue-Fuente, Garcia-Roves, Tundidor, and Zogby voting "Yes" and with Council Vice President Perez, Council Member De la Rosa and Council Member Hernandez absent.

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**PROPOSAL**
**MEMORANDUM OF UNDERSTANDING**

Whereas, the people of the State of Florida and its communities have been harmed by misfeasance, nonfeasance and malfeasance committed by certain entities within the Pharmaceutical Supply Chain;

Whereas, the State of Florida, through its Attorney General, and certain Local Governments, through their elected representatives and counsel, are separately engaged in litigation seeking to hold Pharmaceutical Supply Chain Participants accountable for the damage caused by their misfeasance, nonfeasance and malfeasance;

Whereas, the State of Florida and its Local Governments share a common desire to abate and alleviate the impacts of that misfeasance, nonfeasance and malfeasance throughout the State of Florida;

Whereas, it is the intent of the State of Florida and its Local Governments to use the proceeds from Settlements with Pharmaceutical Supply Chain Participants to increase the amount of funding presently spent on opioid and substance abuse education, treatment and other related programs and services, such as those identified in Exhibits A and B, and to ensure that the funds are expended in compliance with evolving evidence-based "best practices";

Whereas, the State of Florida and its Local Governments, subject to the completion of formal documents that will effectuate the Parties' agreements, enter into this Memorandum of Understanding ("MOU") relating to the allocation and use of the proceeds of Settlements described herein; and

Whereas, this MOU is a preliminary non-binding agreement between the Parties, is not legally enforceable, and only provides a basis to draft formal documents which will effectuate the Parties' agreements.

**A. Definitions**

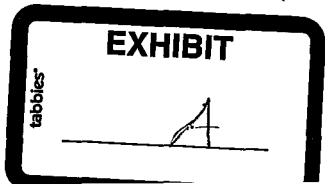
As used in this MOU:

1. "Approved Purpose(s)" shall mean forward-looking strategies, programming and services used to expand the availability of treatment for individuals impacted by substance use disorders, to: (a) develop, promote, and provide evidence-based substance use prevention strategies; (b) provide substance use avoidance and awareness education; (c) decrease the oversupply of licit and illicit opioids; and (d) support recovery from addiction. Approved Purposes shall include, but are not limited to, the opioid abatement strategies listed on Exhibits A and B which are incorporated herein by reference.

2. "Local Governments" shall mean all counties, cities, towns and villages located within the geographic boundaries of the State.

3. "Managing Entities" shall mean the corporations selected by and under contract with the Florida Department of Children and Families or its successor ("DCF") to manage the





daily operational delivery of behavioral health services through a coordinated system of care. The singular "Managing Entity" shall refer to a singular of the Managing Entities.

4. "County" shall mean a political subdivision of the state established pursuant to s. 1, Art. VIII of the State Constitution.

5. "Municipalities" shall mean cities, towns, or villages of a County within the State with a Population greater than 10,000 individuals and shall also include cities, towns or villages within the State with a Population equal to or less than 10,000 individuals which filed a Complaint in this litigation against Pharmaceutical Supply Chain Participants. The singular "Municipality" shall refer to a singular of the Municipalities.

6. "Negotiating Committee" shall mean a three-member group comprised by representatives of the following: (1) the State; and (2) two representatives of Local Governments of which one representative will be from a Municipality and one shall be from a County (collectively, "Members") within the State. The State shall be represented by the Attorney General or her designee.

7. "Negotiation Class Metrics" shall mean those county and city settlement allocations which come from the official website of the Negotiation Class of counties and cities certified on September 11, 2019 by the U.S. District for the Northern District of Ohio in *In re National Prescription Opiate Litigation*, MDL No. 2804 (N.D. Ohio). The website is located at https://allocationmap.iclaimsonline.com.

8. "Opioid Funds" shall mean monetary amounts obtained through a Settlement as defined in this MOU.

9. "Opioid Related" shall have the same meaning and breadth as in the agreed Opioid Abatement Strategies attached hereto as Exhibits A or B.

10. "Parties" shall mean the State and Local Governments. The singular word "Party" shall mean either the State or Local Governments.

11. "PEC" shall mean the Plaintiffs' Executive Committee of the National Prescription Opiate Multidistrict Litigation pending in the United States District Court for the Northern District of Ohio.

12. "Pharmaceutical Supply Chain" shall mean the process and channels through which Controlled Substances are manufactured, marketed, promoted, distributed or dispensed.

13. "Pharmaceutical Supply Chain Participant" shall mean any entity that engages in, or has engaged in the manufacture, marketing, promotion, distribution or dispensing of an opioid analgesic.

14. "Population" shall refer to published U.S. Census Bureau population estimates as of July 1, 2019, released March 2020, and shall remain unchanged during the term of this MOU. These estimates can currently be found at https://www.census.gov

15. "Qualified County" shall mean a charter or non-chartered county within the State that: has a Population of at least 300,000 individuals and (a) has an opioid taskforce of which it is a member or operates in connection with its municipalities or others on a local or regional basis; (b) has an abatement plan that has been either adopted or is being utilized to respond to the opioid epidemic; (c) is currently either providing or is contracting with others to provide substance abuse prevention, recovery, and treatment services to its citizens; and (d) has or enters into an agreement with a majority of Municipalities (Majority is more than 50% of the Municipalities' total population) related to the expenditure of Opioid Funds. The Opioid Funds to be paid to a Qualified County will only include Opioid Funds for Municipalities whose claims are released by the Municipality or Opioid Funds for Municipalities whose claims are otherwise barred.

16. "SAMHSA" shall mean the U.S. Department of Health & Human Services, Substance Abuse and Mental Health Services Administration.

17. "Settlement" shall mean the negotiated resolution of legal or equitable claims against a Pharmaceutical Supply Chain Participant when that resolution has been jointly entered into by the State and Local Governments or a settlement class as described in (B)(1) below.

18. "State" shall mean the State of Florida.

**B. Terms**

1. **Only Abatement** - Other than funds used for the Administrative Costs and Expense Fund as hereinafter described in paragraph 6 and paragraph 9, respectively), all Opioid Funds shall be utilized for Approved Purposes. To accomplish this purpose, the State will either file a new action with Local Governments as Parties or add Local Governments to its existing action, sever settling defendants, and seek entry of a consent order or other order binding both the State, Local Governments, and Pharmaceutical Supply Chain Participant(s) ("Order"). The Order may be part of a class action settlement or similar device. The Order shall provide for continuing jurisdiction of a state court to address non-performance by any party under the Order. Any Local Government that objects to or refuses to be included under the Order or entry of documents necessary to effectuate a Settlement shall not be entitled to any Opioid Funds and its portion of Opioid Funds shall be distributed to, and for the benefit of, the other Local Governments.

2. **Avoid Claw Back and Recoupment** - Both the State and Local Governments wish to maximize any Settlement and Opioid Funds. In addition to committing to only using funds for the Expense Funds, Administrative Costs and Approved Purposes, both Parties will agree to utilize a percentage of funds for the core strategies highlighted in Exhibit A. Exhibit A contains the programs and strategies prioritized by the U.S. Department of Justice and/or the U.S. Department of Health & Human Services ("Core Strategies"). The State is trying to obtain the United States' agreement to limit or reduce the United States' ability to recover or recoup monies from the State and Local Government in exchange for prioritization of funds to certain projects. If no agreement is reached with the United States, then there will be no requirement that a percentage be utilized for Core Strategies.

3. **Distribution Scheme** - All Opioid Funds will initially go to the State, and then be distributed according to the following distribution scheme. The Opioid Funds will be divided into three funds after deducting costs of the Expense Fund detailed in paragraph 9 below:

(a) City/County Fund- The city/county fund will receive 15% of all Opioid Funds to directly benefit all Counties and Municipalities. The amounts to be distributed to each County and Municipality shall be determined by the Negotiation Class Metrics or other metrics agreed upon, in writing, by a County and a Municipality. For Local Governments that are not within the definition of County or Municipality, those Local Governments may receive that government's share of the City/County Fund under the Negotiation Class Metrics, if that government executes a release as part of a Settlement. Any Local Government that is not within the definition of County or Municipality and that does not execute a release as part of a Settlement shall have its share of the City/County Fund go to the County in which it is located.

(b) Regional Fund- The regional fund will be subdivided into two parts.

(i) The State will annually calculate the share of each County within the State of the regional fund utilizing the sliding scale in section 4 of the allocation contained in the Negotiation Class Metrics or other metrics that the Parties agree upon.

(ii) For Qualified Counties, the Qualified County's share will be paid to the Qualified County and expended on Approved Purposes, including the Core Strategies identified in Exhibit A, if applicable.

(iii) For all other Counties, the regional share for each County will be paid to the Managing Entities providing service for that County. The Managing Entities will be required to expend the monies on Approved Purposes, including the Core Strategies. The Managing Entities shall endeavor to the greatest extent possible to expend these monies on counties within the State that are non-Qualified Counties and to ensure that there are services in every County.

(c) State Fund - The remainder of Opioid Funds after deducting the costs of the Expense Fund detailed in paragraph 9, the City/County Fund and the Regional Fund will be expended by the State on Approved Purposes, including the provisions related to Core Strategies, if applicable.

(d) To the extent that Opioid Funds are not appropriated and expended in a year by the State, the State shall identify the investments where settlement funds will be deposited. Any gains, profits, or interest accrued from the deposit of the Opioid Funds to the extent that any funds are not appropriated and expended within a calendar year, shall be the sole property of the Party that was entitled to the initial deposit.

4. Regional Fund Sliding Scale- The Regional Fund shall be calculated by utilizing the following sliding scale of the Opioid Funds available in any year:

A. Years 1-6: 40%

B. Years 7-9: 35%

C. Years 10-12: 34%

D. Years 13-15: 33%

E. Years 16-18: 30%

5. Opioid Abatement Taskforce or Council - The State will create an Opioid Abatement Taskforce or Council (sometimes hereinafter "Taskforce" or "Council") to advise the Governor, the Legislature, Florida's Department of Children and Families ("DCF"), and Local Governments on the priorities that should be addressed as part of the opioid epidemic and to review how monies have been spent and the results that have been achieved with Opioid Funds.

(a) Size - The Taskforce or Council shall have ten Members equally balanced between the State and the Local Governments.

(b) Appointments Local Governments - Two Municipality representatives will be appointed by or through Florida League of Cities. Two county representatives, one from a Qualified County and one from a county within the State that is not a Qualified County, will be appointed by or through the Florida Association of Counties. The final representative will alternate every two years between being a county representative (appointed by or through Florida Association of Counties) or a Municipality representative (appointed by or through the Florida League of Cities). One Municipality representative must be from a city of less than 50,000 people. One county representative must be from a county less than 200,000 people and the other county representative must be from a county whose population exceeds 200,000 people.

(c) Appointments State -

(i) The Governor shall appoint two Members.

(ii) The Speaker of the House shall appoint one Member.

(iii) The Senate President shall appoint one Member.

(iv) The Attorney General or her designee shall be a Member.

(d) Chair - The Attorney General or designee shall be the chair of the Taskforce or Council.

(e) Term - Members will be appointed to serve a two-year term.

(f) Support - DCF shall support the Taskforce or Council and the Taskforce or Council shall be administratively housed in DCF.

(g) Meetings - The Taskforce or Council shall meet quarterly in person or virtually using communications media technology as defined in section 120.54(5)(b)(2), Florida Statutes.

(h) Reporting - The Taskforce or Council shall provide and publish a report annually no later than November 30th or the first business day after November 30th, if November 30th falls on a weekend or is otherwise not a business day. The report shall contain information on how monies were spent the previous fiscal year by the State, each of the Qualified Counties, each of the Managing Entities, and each of the Local Governments. It shall also contain recommendations to the Governor, the Legislature, and Local Governments for priorities among the Approved Purposes for how monies should be spent the coming fiscal year to respond to the opioid epidemic.

(i) Accountability - Prior to July 1st of each year, the State and each of the Local Governments shall provide information to DCF about how they intend to expend Opioid Funds in the upcoming fiscal year. The State and each of the Local Government shall report its expenditures to DCF no later than August 31st for the previous fiscal year. The Taskforce or Council will set other data sets that need to be reported to DCF to demonstrate the effectiveness of Approved Purposes. All programs and expenditures shall be audited annually in a similar fashion to SAMHSA programs. Local Governments shall respond and provide documents to any reasonable requests from the State for data or information about programs receiving Opioid Funds.

(j) Conflict of Interest - All Members shall adhere to the rules, regulations and laws of Florida including, but not limited to, Florida Statute §112.311, concerning the disclosure of conflicts of interest and recusal from discussions or votes on conflicted matters.

6. **Administrative Costs**- The State may take no more than a 5% administrative fee from the State Fund ("Administrative Costs") and any Regional Fund that it administers for counties that are not Qualified Counties. Each Qualified County may take no more than a 5% administrative fee from its share of the Regional Funds.

7. **Negotiation of Non-Multistate Settlements** - If the State begins negotiations with a Pharmaceutical Supply Chain Participant that is separate and apart from a multi-state negotiation, the State shall include Local Governments that are a part of the Negotiating Committee in such negotiations. No Settlement shall be recommended or accepted without the affirmative votes of both the State and Local Government representatives of the Negotiating Committee.

8. **Negotiation of Multistate or Local Government Settlements** - To the extent practicable and allowed by other parties to a negotiation, both Parties agree to communicate with

members of the Negotiation Committee regarding the terms of any other Pharmaceutical Supply Chain Participant Settlement.

9. **Expense Fund** - The Parties agree that in any negotiation every effort shall be made to cause Pharmaceutical Supply Chain Participants to pay costs of litigation, including attorneys' fees, in addition to any agreed to Opioid Funds in the Settlement. To the extent that a fund sufficient to pay the entirety of all contingency fee contracts for Local Governments in the State of Florida is not created as part of a Settlement by a Pharmaceutical Supply Chain Participant, the Parties agree that an additional expense fund for attorneys who represent Local Governments (herein "Expense Fund") shall be created out of the City/County fund for the purpose of paying the hard costs of a litigating Local Government and then paying attorneys' fees.

(a) The Source of Funds for the Expense Fund- Money for the Expense Fund shall be sourced exclusively from the City/County Fund.

(b) The Amount of the Expense Fund- The State recognizes the value litigating Local Governments bring to the State of Florida in connection with the Settlement because their participation increases the amount Incentive Payments due from each Pharmaceutical Supply Chain Participant. In recognition of that value, the amount of funds that shall be deposited into the Expense fund shall be contingent upon on the percentage of litigating Local Government participation in the Settlement, according to the following table:

| Litigating Local Government Participation in the Settlement (by percentage of the population) | Amount that shall be paid into the Expense Fund from (and as a percentage of) the City/County fund |
|---|---|
| 96 to 100% | 10% |
| 91 to 95% | 7.5% |
| 86 to 90% | 5% |
| 85% | 2.5% |
| Less than 85% | 0% |

If fewer than 85% percent of the litigating Local Governments (by population) participate, then the Expense Fund shall not be funded, and this Section of the MOU shall be null and void.

(c) The Timing of Payments into the Expense Fund- Although the amount of the Expense Fund shall be calculated based on the entirety of payments due to the City/County fund over a ten to eighteen year period, the Expense Fund shall be funded entirely from payments made by Pharmaceutical Supply Chain Participants during the first two years of the Settlement. Accordingly, to offset the amounts being paid from the City/County to the Expense Fund in the first two years, Counties or Municipalities may borrow from the Regional Fund during the first two years and pay the borrowed amounts back to the Regional Fund during years three, four, and five.

For the avoidance of doubt, the following provides an illustrative example regarding the calculation of payments and amounts that may be borrowed under the terms of this MOU, consistent with the provisions of this Section:

| | |
|---|---|
| Opioid Funds due to State of Florida and Local Governments (over 10 to 18 years): | $1,000 |
| Litigating Local Government Participation: | 100% |
| City/County Fund (over 10 to 18 years): | $150 |
| Expense Fund (paid over 2 years): | $15 |
| Amount Paid to Expense Fund in 1st year: | $7.5 |
| Amount Paid to Expense Fund in 2nd year | $7.5 |
| Amount that may be borrowed from Regional Fund in 1st year: | $7.5 |
| Amount that may be borrowed from Regional Fund in 2nd year: | $7.5 |
| Amount that must be paid back to Regional Fund in 3rd year: | $5 |
| Amount that must be paid back to Regional Fund in 4th year: | $5 |
| Amount that must be paid back to Regional Fund in 5th year: | $5 |

(d) Creation of and Jurisdiction over the Expense Fund- The Expense Fund shall be established, consistent with the provisions of this Section of the MOU, by order of the Circuit Court of the Sixth Judicial Circuit in and for Pasco County, West Pasco Division New Port Richey, Florida, in the matter of *The State of Florida, Office of the Attorney General, Department of Legal Affairs v. Purdue Pharma L.P., et al.*, Case No. 2018-CA-001438 (the "Court"). The Court shall have jurisdiction over the Expense Fund, including authority to allocate and disburse amounts from the Expense Fund and to resolve any disputes concerning the Expense Fund.

(e) Allocation of Payments to Counsel from the Expense Fund- As part of the order establishing the Expense Fund, counsel for the litigating Local Governments shall seek to have the Court appoint a third-neutral to serve as a special master for purposes of allocating the Expense Fund. Within 30 days of entry of the order appointing a special master for the Expense Fund, any counsel who intend to seek an award from the Expense Fund shall provide the copies of their contingency fee contracts to the special master. The special master shall then build a mathematical model, which shall be based on each litigating Local Government's share under the Negotiation Class Metrics and the rate set forth in their contingency contracts, to calculate a proposed award for each litigating Local Government who timely provided a copy of its contingency contract.

10. **Dispute resolution-** Any one or more of the Local Governments or the State may object to an allocation or expenditure of Opioid Funds solely on the basis that the allocation or expenditure at issue (a) is inconsistent with the Approved Purposes; (b) is inconsistent with the distribution scheme as provided in paragraph 3, or (c) violates the limitations set forth herein with respect to administrative costs or the Expense Fund. There shall be no other basis for bringing an objection to the approval of an allocation or expenditure of Opioid Funds.

## 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**")[, such that a minimum of __% of the [aggregate] state-level abatement distributions shall be spent on [one or more of] them annually].[1]

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 non-Medicaid eligible or uninsured individuals;

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. 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 with other support services.

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 Opioid Use Disorder (OUD) including housing, transportation, job placement/training, and childcare.

D. Expanding Treatment for Neonatal Abstinence Syndrome

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.

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[1] As used in this Schedule A, words like "expand," "fund," "provide" or the like shall not indicate a preference for new or existing programs. Priorities will be established through the mechanisms described in the Term Sheet.

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

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, the following:[2]

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. 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.

8. 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. Fellowships for addiction medicine specialists for direct patient care, instructors, and clinical research for treatments.

11. Scholarships and supports for behavioral health practitioners or workers involved in addressing OUD and any co-occurring SUD or mental health conditions, including but not limited to training,

[2] As used in this Schedule B, words like "expand," "fund," "provide" or the like shall not indicate a preference for new or existing programs. Priorities will be established through the mechanisms described in the Term Sheet.

scholarships, fellowships, loan repayment programs, or other incentives for providers to work in rural or underserved areas.

12. [Intentionally Blank – to be cleaned up later for numbering]

13. 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.

14. Dissemination 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.

15. Development and dissemination of 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 treatment for or 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 following:

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. 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 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, the following:

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 Screening, Brief Intervention and Referral to Treatment (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. 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, the following:

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:

a. Self-referral strategies such as the Angel Programs or the Police Assisted Addiction Recovery Initiative (PAARI);

b. Active outreach strategies such as the Drug Abuse Response Team (DART) model;

c. "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;

d. Officer prevention strategies, such as the Law Enforcement Assisted Diversion (LEAD) model;

e. Officer intervention strategies such as the Leon County, Florida Adult Civil Citation Network or the Chicago Westside Narcotics Diversion to Treatment Initiative; or

f. 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 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 (CTI), 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, the following:

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. Training for obstetricians or other healthcare personnel that 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; 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 Neonatal Abstinence Syndrome get referred to appropriate services and receive a plan of safe care.

6. Child and family supports for parenting women with OUD and any co-occurring SUD/MH conditions.

7. Enhanced family supports 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. 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. Fund medical provider education and outreach regarding best prescribing practices for opioids consistent with 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. Support for non-opioid pain treatment alternatives, including training providers to offer or refer to multi-modal, evidence-informed treatment of pain.

5. Support enhancements or improvements to Prescription Drug Monitoring Programs (PDMPs), including but not limited to improvements that:

a. Increase the number of prescribers using PDMPs;

b. 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

c. 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. Increase electronic prescribing to prevent diversion or forgery.

8. Educate 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. Fund 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. Fund community anti-drug coalitions that engage in drug prevention efforts.

6. Support 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. Engage non-profits and faith-based communities as systems to support prevention.

8. Fund 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 of 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 other 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. Increase 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, individuals at high risk of overdose, schools, community navigators and outreach workers, persons being released from jail or prison, or other members of the general public.

2. Public health entities provide 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. Enable school nurses and other school staff to respond to opioid overdoses, and provide them with naloxone, training, and support.

5. Expand, improve, or develop 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. Educate 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. Expand access to testing and treatment for infectious diseases such as HIV and Hepatitis C resulting from intravenous opioid use.

11. Support 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. Provide 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. Support screening for fentanyl in routine clinical toxicology testing.

PART THREE: OTHER STRATEGIES

## I. FIRST RESPONDERS

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

1. Educate 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, facilitation, 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; to support training and technical assistance; or to support other strategies to abate the opioid epidemic described in this opioid abatement strategy list.

2. A dashboard to share reports, recommendations, or plans to spend opioid settlement funds; to show how opioid settlement funds have been spent; to report program or strategy outcomes; or to track, share, or visualize key opioid-related 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, the following:

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.

# City of Miami Gardens



July 14, 2021

Office of the Attorney General
State of Florida
Chief Deputy Attorney General John Guard
PL-01 The Capitol
Tallahassee, FL 32399-1050

Re: Resolution No. 2021-076-3631

Dear Mr. John Guard:

Please find enclosed an executed copy of City of Miami Gardens Resolution No. 2021-076-3631, which authorizes the City of Miami Gardens to join with the State of Florida and other Local Governmental units as a participant in the Florida Memorandum of Understanding. Thank you for your assistance in this matter.

Sincerely,

Sonja K. Dickens
City Attorney

Encls.



18605 NW 27th Avenue • Miami Gardens, Florida 33056 • Tel: (305) 914-9010 • Fax: (305) 622-8001 • www.miamigardens-fl.gov

RESOLUTION NO. 2021-076-3631

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, TO JOIN WITH THE STATE OF FLORIDA AND OTHER LOCAL GOVERNMENTAL UNITS AS A PARTICIPANT IN THE FLORIDA MEMORANDUM OF UNDERSTANDING AND FORMAL AGREEMENTS IMPLEMENTING A UNIFIED PLAN RELATING TO THE OPIOID LITIGATION; AUTHORIZING THE CITY MANAGER AND CITY CLERK TO EXECUTE AND ATTEST SAID MEMORANDUM OF UNDERSTANDING; PROVIDING FOR INSTRUCTIONS TO THE CITY CLERK; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Miami Gardens has suffered harm from the opioid epidemic, and

WHEREAS, the City of Miami Gardens recognizes that the entire State of Florida has suffered harm as a result from the opiod epidemic, and

WHEREAS,the State of Florida has filed an action pending in Pasco County, Florida and a number of Florida Cities and Counties have also filed an action In re: National Prescription Litigation, MDL No. 2804 (N.D. Ohio) (the "Opiod Litigation") and the City of Miami Gardens is a litigating participate in that action, and

WHEREAS, the State of Florida and lawyers representing certain various local governments involved in the Opioid Litigation have proposed a unified plan for the allocation of prospective settlement dollars.from opioid related litigation, and

WHEREAS, Florida Memorandum of Understanding (the "Florida Plan") sets forth a framework of a unified plan for the proposed allocation and use of opioid settlement proceeds and it is anticipated that formal agreements implementing the Florida Plan will be entered into at a future date, and

WHEREAS, participation in the Florida Plan by a large majority of Florida cities and counties will materially increase the amount of funds to Florida and should improve Florida's relative bargaining position during additional settlement negotiation , and

WHEREAS, failure to participate in the Florida Plan will reduce funds available to the State, City of Miami Gardens and every other Florida city and county,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA AS FOLLOWS:

Section 1: ADOPTION OF REPRESENTATIONS: The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Resolution.

Section 2: The City Council finds that participation in the Florida Plan would be in the best interest of the City of Miami Gardens and its citizens in that such a plan ensures that almost all of the settlement funds go to abate and resolve the opioid epidemic and each and every city and county receives funds for the harm that it has suffered.

Section 3: The City Council herby expresses its support of a unified plan for the allocation and use of opiod settlement proceeds as generally described in the Florida Plan, attached hereto as Exhibit "A".

Section 4: AUTHORIZATION: The City Council of the City of Miami Gardens hereby authorizes the City Manager and City Clerk to execute and attest said Florida Plan in substantially the from contained in Exhibit "A". The City Manager is hereby authorized to execute any formal agreements implementing a unified plan for the allocation and use of opiod settlement proceeds that is not substantially inconsistent with the Florida Plan and this Resolution.

Section 5: The Clerk be and hereby is instructed to record this Resolution in the appropriate record book upon its adoption.

Section 6: INSTRUCTIONS TO THE CITY CLERK: The City Clerk is hereby authorized to obtain two (2) fully executed copies of the subject Agreement with one to be maintained by the City, and one to be delivered to the Florida League of Cities and Attorney General Ashley Moody, c/o John M. Guard, The Capitol, PL-01, Tallahassee, FL 32399-1050

Section 3: EFFECTIVE DATE: This Resolution shall take effect immediately upon its final passage.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON JUNE 23, 2021.

DocuSigned by:
B912A2EF5F0C4FD...
RODNEY HARRIS, MAYOR

ATTEST:

DocuSigned by:
C4408C142F1C48B...
MARIO BATAILLE, CMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, CITY ATTORNEY

SPONSORED BY: SONJA KNIGHTON DICKENS, CITY ATTORNEY

Moved by: Councilman Stephens
Seconded by: Councilwoman Campbell

**VOTE: 6-0**

| | |
|---|---|
| ***Mayor Harris*** | ***Absent*** |
| ***Vice Mayor Leon*** | ***Yes*** |
| ***Councilwoman Campbell*** | ***Yes*** |
| ***Councilwoman Ighodaro*** | ***Yes*** |
| ***Councilwoman Julien*** | ***Yes*** |
| ***Councilman Stephens, III*** | ***Yes*** |
| ***Councilwoman Wilson*** | ***Yes*** |

City of South Miami

July 7, 2021

FL Attorney General: Ashley Moody
C/O John M. Guard
The Capitol,
PL-01
Tallahassee, FL 32399

Dear Honorable Ashley Moody,

Enclosed please find Resolution No. 051-21-15671 "A Resolution of the Mayor and City Commissioners of the City of South Miami ("City") authorizing the City to join with the State of Florida and other local governmental units as a participant in the Florida Memorandum of Understanding and Formal Agreements implementing a Unified Plan." Passed at the May 04, 2021, City Commission Meeting.

Sincerely,

Nkenga A. Payne, CMC, FCRM
City Clerk

**RESOLUTION NO.** 051-21-15671

**A Resolution of the Mayor and City Commissioners of the City of South Miami ("City") authorizing the City to join with the State of Florida and other local governmental units as a participant in the Florida Memorandum of Understanding and Formal Agreements implementing a Unified Plan.**

**WHEREAS,** the City of South Miami ("City") has suffered harm from the opioid epidemic; and

**WHEREAS,** the City recognizes that the entire State of Florida has suffered harm as a result from the opioid epidemic; and

**WHEREAS,** the State of Florida has filed an action pending in Pasco County, Florida, and a number of Florida Cities and Counties have also filed an action In re: National Prescription Opiate Litigation, MDL No. 2804 (N.D. Ohio) (the "Opioid Litigation") and City is not a litigating participant in that action; and

**WHEREAS,** the State of Florida and lawyers representing certain various local governments involved in the Opioid Litigation have proposed a unified plan for the allocation and use of prospective settlement dollars from opioid related litigation; and

**WHEREAS,** the Florida Memorandum of Understanding (the "Florida Plan") sets forth a framework of a unified plan for the proposed allocation and use of opioid settlement proceeds and it is anticipated that formal agreements implementing the Florida Plan will be entered into at a future date; and

**WHEREAS,** participation in the Florida Plan by a large majority of Florida cities and counties will materially increase the amount of funds to Florida and should improve Florida's relative bargaining position during additional settlement negotiations; and

**WHEREAS,** failure to participate in the Florida Plan will reduce funds available to the State, City of South Miami, and every other Florida city and county;

**NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSIONERS OF THE CITY OF SOUTH MIAMI, FLORIDA:**

**Section 1.** The foregoing recitals are hereby ratified and confirmed as being true and they are incorporated into this resolution by reference as if set forth in full herein.

**Section 2.** The Mayor and City Commissioners of the City of South Miami find that participation in the Florida Plan would be in the best interest of the City of South Miami and its citizens in that such a plan ensures that almost all of the settlement funds go to abate and resolve the opioid epidemic and each and every city and county receives funds for the harm that it has suffered.

**Section 3.** The Mayor and City Commissioners of the City of South Miami hereby expresses the City of South Miami's support of a unified plan for the allocation and use of opioid settlement proceeds as generally described in the Florida Plan, attached hereto as Exhibit "A."

**Section 4.** The City Manager is hereby expressly authorized to execute the Florida Plan in substantially the form contained in Exhibit "A."

**Section 5.** The City Manager is hereby authorized to execute any formal agreements implementing a unified plan for the allocation and use of opioid settlement proceeds that is not substantially inconsistent with the Florida Plan and this Resolution.

**Section 6. Instructions to the City Clerk.** The City Clerk is instructed to record this Resolution in the appropriate record book upon its adoption and is hereby further directed to furnish a certified copy of this Resolution to the following entities:

Florida League of Cities and Florida Association of Counties
FL Attorney General: Ashley Moody
c\o John M. Guard
The Capitol,
PL-01
Tallahassee, FL 32399-1050

**Section 7. Corrections.** Conforming language or technical scrivener-type corrections may be made by the City Attorney for any conforming amendments to be incorporated into the final resolution for signature.

**Section 8. Severability.** If any section clause, sentence, or phrase of this resolution is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding will not affect the validity of the remaining portions of this resolution.

**Section 9. Effective Date.** This resolution will become effective immediately upon adoption.

PASSED AND ADOPTED this 4th day of May, 2021.

ATTEST:

CITY CLERK

APPROVED:

MAYOR

READ AND APPROVED AS TO FORM, LANGUAGE, LEGALITY, AND EXECUTION THEREOF

CITY ATTORNEY

| | |
|---|---|
| COMMISSION VOTE: | 5-0 |
| Mayor Philips: | Yea |
| Commissioner Gil: | Yea |
| Commissioner Harris: | Yea |
| Commissioner Liebman: | Yea |
| Commissioner Corey: | Yea |

**CERTIFICATION**

I Nkenga A Payne City Clerk with the City of South Miami, Miami-Dade County, Florida, do hereby certify this document to be a true and correct copy of

Res. No. 051-21-15671

dated May 4, 2021, according to the records of the City of South Miami, Florida. Given my hand and the official Seal of the City of South Miami, Florida this 12 day of July AD 2021.

NK Payne

City Clerk

# MEMORANDUM
(Revised)

**TO:** Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

**DATE:** September 1, 2021

**FROM:** Geri Bonzon-Keenan
County Attorney

**SUBJECT:** Substitute Agenda Item No. 13(A)(1)

**Please note any items checked.**

| | |
|---|---|
| _____ | **"3-Day Rule" for committees applicable if raised** |
| _____ | **6 weeks required between first reading and public hearing** |
| _____ | **4 weeks notification to municipal officials required prior to public hearing** |
| _____ | **Decreases revenues or increases expenditures without balancing budget** |
| _____ | **Budget required** |
| _____ | **Statement of fiscal impact required** |
| _____ | **Statement of social equity required** |
| _____ | **Ordinance creating a new board requires detailed County Mayor's report for public hearing** |
| ✓ | **No committee review** |
| _____ | **Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) to approve** |
| _____ | **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required** |

Approved _____ Mayor

Veto _____

Override _____

Substitute
Agenda Item No. 13(A)(1)
9-1-21

RESOLUTION NO. _____

RESOLUTION AUTHORIZING MIAMI-DADE COUNTY TO JOIN THE STATE OF FLORIDA AND OTHER LOCAL GOVERNMENTS AS A PARTICIPANT IN THE FLORIDA MEMORANDUM OF UNDERSTANDING TO IMPLEMENT A UNIFIED PLAN RELATING TO THE ALLOCATION AND USE OF ANY POTENTIAL SETTLEMENT PROCEEDS RECEIVED UNDER CURRENT PROPOSED SETTLEMENT AGREEMENTS OR FUTURE SETTLEMENT AGREEMENTS IN *IN RE: NATIONAL PRESCRIPTION OPIATE* LITIGATION; APPROVING THE TERMS OF A MEMORANDUM OF UNDERSTANDING; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SAID MEMORANDUM OF UNDERSTANDING, AND, IN CONSULTATION WITH THE COUNTY ATTORNEY'S OFFICE AND THE CHIEF EXECUTIVE OFFICER OF THE PUBLIC HEALTH TRUST OR THE CHIEF EXECUTIVE OFFICER'S DESIGNEE, TO NEGOTIATE CERTAIN NECESSARY AGREEMENTS TO BE PRESENTED TO THE FULL BOARD WITHOUT COMMITTEE REVIEW; AUTHORIZING THE COUNTY ATTORNEY OR COUNTY ATTORNEY'S DESIGNEE, IN CONSULTATION WITH THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE, THE CHIEF EXECUTIVE OFFICER OF THE PUBLIC HEALTH TRUST OR THE CHIEF EXECUTIVE OFFICER'S DESIGNEE, AND OUTSIDE COUNSEL, TO VOTE IN FAVOR OF OR AGAINST THE CHAPTER 11 BANKRUPTCY PLAN IN *IN RE MALLINCKRODT PLC, ET AL.*; AND DIRECTING THE COUNTY ATTORNEY TO PROVIDE A REPORT TO THE BOARD

**WHEREAS**, the opioid epidemic in the United States is a nationwide public health crisis that was driven by increased consumption and the widespread availability of pharmaceutical opioids; and

**WHEREAS**, companies involved in the pharmaceutical supply chain including, but not limited to, distributors, manufacturers, dispensing companies, and marketing agencies contributed to the great harm suffered by the State of Florida and Miami-Dade County as a result of the opioid epidemic; and

**WHEREAS**, in an effort to seek redress for such harm, on April 23, 2018, the County's outside counsel, consisting of Podhurst Orseck, P.A.; Levin, Papantonio, Thomas, Mitchell, Rafferty & Proctor, PA; Baron & Budd, PC; Green, Ketchum, Farrell, Bailey & Tweet, LLP; McHugh Fuller Law Group, PLLC; Hill, Peterson, Carper, Bee & Dietzler, PLLC; and Powell & Majestro, PLLC ("Podhurst") filed the County's federal lawsuit against several manufacturers and distributors of prescription opiate drugs in the United States District Court for the Southern District of Florida; and

**WHEREAS**, the case was transferred to the Northern District of Ohio to be included in the Opioid Multidistrict Litigation ("Opioid MDL") being litigated in that court; and

**WHEREAS**, negotiations regarding potential settlements of the claims raised against defendants in the Opioid MDL are ongoing; and

**WHEREAS**, as part of such negotiations, states across the nation, including the State of the Florida, have negotiated with certain Opioid MDL defendants; and

**WHEREAS**, two settlement agreements have been tentatively reached between various parties and: (1) McKesson Corporation, Cardinal Health, Inc., and AmerisourceBergen Corporation (the "Distributor Settlement Agreement"); and (2) Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc. and Janssen Pharmaceutica, Inc. (the "J&J Settlement Agreement") (collectively, the "Settlement Agreements"); and

**WHEREAS**, under the Distributor Settlement Agreement, the State of Florida and its local governments will share up to $18,554,013,691, excluding fees and offsets; and

**WHEREAS**, under the J&J Settlement Agreement, after fees and offsets, the State of Florida and its local governments will share up to $299,627,612.33; and

**WHEREAS**, in addition to monetary damages, the Settlement Agreements also include injunctive relief that seeks to change the behavior of pharmaceutical supply chain participants; and

**WHEREAS**, for example, under the Distributor Settlement Agreement, the settling defendants must take specific measures to detect suspicious opioid orders and problematic customers; and

**WHEREAS**, similarly, under the J&J Settlement Agreement, among other things, the settling defendants are enjoined from manufacturing or selling any opioids for 10 years; and

**WHEREAS**, the Settlement Agreements also incentivize states and local governments to reach allocation agreements; and

**WHEREAS**, failure to reach an allocation agreement may disadvantage the County with respect to the terms of any future settlement with these defendants; and

**WHEREAS**, Podhurst and outside counsel for nearly all political subdivisions in Florida have been working together to negotiate an allocation agreement with the State regarding the distribution of settlement proceeds obtained through the Opioid MDL; and

**WHEREAS**, for the reasons set forth in the accompanying memorandum and the Podhurst memorandum attached thereto as Exhibit A this Board wishes to authorize the County Mayor or the County Mayor's designee to execute the proposed Memorandum of Understanding attached hereto as Attachment A; and

**WHEREAS**, along with the County, Jackson Health System ("Jackson"), has also been significantly impacted by the opioid epidemic; and

**WHEREAS**, for example, Jackson's Emergency Department and Behavioral Health Hospital physicians have treated patients for a variety of conditions related to opioid abuse and misuse, including, but not limited to overdoses, heart attacks, strokes, cellulitis, and other infections; and

**WHEREAS**, this Board desires that the County Mayor or County Mayor's designee consult with the Chief Executive Officer of the Public Health Trust ("PHT CEO") or the PHT CEO's designee, to the extent feasible, on matters related to settlement in the Opioid MDL[[~~,~~]][1] >>;and

**WHEREAS,** the County is a creditor in *In re Mallinckrodt plc, et al.*, Case No. 20-12522 (JTD); and

**WHEREAS**, Mallinckrodt plc ("Mallinckrodt") is a specialty pharmaceutical company and the largest generic opioid manufacturer in the United States; and

**WHEREAS**, Mallinckrodt petitioned for bankruptcy under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware on October 12, 2020, after being named as a defendant in the Opioid MDL; and

[1] The differences between the substitute and the original item are indicated as follows: Words stricken through and/or [[double bracketed]] shall be deleted, words underscored and/or >>double arrowed<< are added.

**WHEREAS**, on June 17, 2021, the bankruptcy court entered an order, which, in part, authorized Mallinckrodt to solicit votes on the *Joint Plan of Reorganization of Mallinckrodt plc and its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code* and approved bankruptcy solicitation materials and documents and procedures for soliciting and tabulating votes (the "Plan"); and

**WHEREAS**, the Plan seeks to resolve all litigation that Mallinckrodt is engaged in by settlement, including the Opioid MDL, and to restructure Mallinckrodt's capital structure; and

**WHEREAS**, because the County filed a proof of claim in Mallinckrodt's bankruptcy case as a creditor, it is entitled to vote on the Plan; and

**WHEREAS**, the deadline to vote on the Plan is currently September 10, 2021; and

**WHEREAS**, at this time, it is uncertain whether the vote on the Plan will proceed on September 10, 2021, and neither the Plaintiffs' Executive Committee nor the County's outside counsel have made a recommendation on the Plan; and

**WHEREAS**, due to the expedited nature of bankruptcy proceedings, a vote on the Plan may be required before the Board's next regularly scheduled meeting; and

**WHEREAS**, as such, this Board wishes to authorize the County Attorney or the County Attorney's designee, in consultation with the County Mayor or County Mayor's designee, the PHT CEO or the PHT CEO's designee, and outside counsel, to vote in favor of or against the Plan,<<

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA,** this Board:

**Section 1**. Approves and incorporates the foregoing recitals in this resolution.

**Section 2**. Authorizes Miami-Dade County to join with the State of Florida and other local governments as a participant in the Florida Memorandum of Understanding ("MOU") implementing a unified plan for the allocation and use of opioid litigation settlement proceeds obtained in *In re: National Prescription Opiate Litigation*, MDL No. 2804 (N.D. Ohio) (the "Opioid MDL"), including, but not limited to, proceeds obtained from the settlement agreements with (1) certain distributor defendants; (2) Johnson & Johnson and affiliated companies; and (3) other defendants in any future settlement agreements entered in the Opioid MDL.

**Section 3.** Approves the terms of the MOU, in substantially similar form as attached hereto as Attachment A.

**Section 4.** Authorizes the County Mayor or County Mayor's designee to execute the MOU and, in consultation with the County Attorney's Office and the PHT CEO or the PHT CEO's designee, negotiate any final agreement, if needed, between the County, the State and any other necessary parties that formalizes the terms of an agreement based on the MOU. Such agreements shall be presented directly to the full Board for consideration and approval without committee review.

**Section 5.** Authorizes the County Mayor or County Mayor's designee, in consultation with the County Attorney's Office and the PHT CEO or the PHT CEO's designee, to negotiate the terms of agreements with municipalities necessary for the County to be designated a Qualified County under the MOU consistent with the requirements therein. Such agreements shall be presented directly to the full Board for consideration and approval without committee review.

>>**Section 6.** Authorizes the County Attorney or the County Attorney's designee, in consultation with the County Mayor or County Mayor's designee, the PHT CEO or the PHT CEO's designee, and outside counsel, to vote in favor of or against the *Joint Plan of*

*Reorganization of Mallinckrodt plc and its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code In re Mallinckrodt plc, et al.*, Case No. 20-12522 (JTD) *(Bankr. D. Del.)* and directs the County Attorney to provide a report to the Board regarding the actions taken pursuant to the authority delegated in this section.<<

The Prime Sponsor of the foregoing resolution is County Attorney Geri Bonzon-Keenan and the Co-Sposoner is Commissioner Sally A. Heyman. It was offered by Commissioner , who moved its adoption. The motion was seconded by Commissioner and upon being put to a vote, the vote was as follows:

Jose "Pepe" Diaz, Chairman
Oliver G. Gilbert, III, Vice-Chairman

| | |
|---|---|
| Sen. René García | Keon Hardemon |
| Sally A. Heyman | Danielle Cohen Higgins |
| Eileen Higgins | Joe A. Martinez |
| Kionne L. McGhee | Jean Monestime |
| Raquel A. Regalado | Rebeca Sosa |
| Sen. Javier D. Souto | |

The Chairperson thereupon declared this resolution duly passed and adopted this 1st day of September, 2021. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Angela Benjamin
Shanika A. Graves

**PROPOSAL**
**MEMORANDUM OF UNDERSTANDING**

Whereas, the people of the State of Florida and its communities have been harmed by misfeasance, nonfeasance and malfeasance committed by certain entities within the Pharmaceutical Supply Chain;

Whereas, the State of Florida, through its Attorney General, and certain Local Governments, through their elected representatives and counsel, are separately engaged in litigation seeking to hold Pharmaceutical Supply Chain Participants accountable for the damage caused by their misfeasance, nonfeasance and malfeasance;

Whereas, the State of Florida and its Local Governments share a common desire to abate and alleviate the impacts of that misfeasance, nonfeasance and malfeasance throughout the State of Florida;

Whereas, it is the intent of the State of Florida and its Local Governments to use the proceeds from Settlements with Pharmaceutical Supply Chain Participants to increase the amount of funding presently spent on opioid and substance abuse education, treatment and other related programs and services, such as those identified in Exhibits A and B, and to ensure that the funds are expended in compliance with evolving evidence-based "best practices";

Whereas, the State of Florida and its Local Governments, subject to the completion of formal documents that will effectuate the Parties' agreements, enter into this Memorandum of Understanding ("MOU") relating to the allocation and use of the proceeds of Settlements described herein; and

Whereas, this MOU is a preliminary non-binding agreement between the Parties, is not legally enforceable, and only provides a basis to draft formal documents which will effectuate the Parties' agreements.

**A. Definitions**

As used in this MOU:

1. "Approved Purpose(s)" shall mean forward-looking strategies, programming and services used to expand the availability of treatment for individuals impacted by substance use disorders, to: (a) develop, promote, and provide evidence-based substance use prevention strategies; (b) provide substance use avoidance and awareness education; (c) decrease the oversupply of licit and illicit opioids; and (d) support recovery from addiction. Approved Purposes shall include, but are not limited to, the opioid abatement strategies listed on Exhibits A and B which are incorporated herein by reference.

2. "Local Governments" shall mean all counties, cities, towns and villages located within the geographic boundaries of the State.

3. "Managing Entities" shall mean the corporations selected by and under contract with the Florida Department of Children and Families or its successor ("DCF") to manage the

daily operational delivery of behavioral health services through a coordinated system of care. The singular "Managing Entity" shall refer to a singular of the Managing Entities.

4. "County" shall mean a political subdivision of the state established pursuant to s. 1, Art. VIII of the State Constitution.

5. "Municipalities" shall mean cities, towns, or villages of a County within the State with a Population greater than 10,000 individuals and shall also include cities, towns or villages within the State with a Population equal to or less than 10,000 individuals which filed a Complaint in this litigation against Pharmaceutical Supply Chain Participants. The singular "Municipality" shall refer to a singular of the Municipalities.

6. ''Negotiating Committee" shall mean a three-member group comprised by representatives of the following: (1) the State; and (2) two representatives of Local Governments of which one representative will be from a Municipality and one shall be from a County (collectively, "Members") within the State. The State shall be represented by the Attorney General or her designee.

7. "Negotiation Class Metrics" shall mean those county and city settlement allocations which come from the official website of the Negotiation Class of counties and cities certified on September 11, 2019 by the U.S. District for the Northern District of Ohio in *In re National Prescription Opiate Litigation*, MDL No. 2804 (N.D. Ohio). The website is located at https://allocationmap.iclaimsonline.com.

8. "Opioid Funds" shall mean monetary amounts obtained through a Settlement as defined in this MOU.

9. "Opioid Related" shall have the same meaning and breadth as in the agreed Opioid Abatement Strategies attached hereto as Exhibits A or B.

10. "Parties" shall mean the State and Local Governments. The singular word "Party" shall mean either the State or Local Governments.

11. "PEC" shall mean the Plaintiffs' Executive Committee of the National Prescription Opiate Multidistrict Litigation pending in the United States District Court for the Northern District of Ohio.

12. "Pharmaceutical Supply Chain" shall mean the process and channels through which Controlled Substances are manufactured, marketed, promoted, distributed or dispensed.

13. "Pharmaceutical Supply Chain Participant" shall mean any entity that engages in, or has engaged in the manufacture, marketing, promotion, distribution or dispensing of an opioid analgesic.

14. "Population" shall refer to published U.S. Census Bureau population estimates as of July 1, 2019, released March 2020, and shall remain unchanged during the term of this MOU. These estimates can currently be found at https://www.census.gov

15. "Qualified County" shall mean a charter or non-chartered county within the State that: has a Population of at least 300,000 individuals and (a) has an opioid taskforce of which it is a member or operates in connection with its municipalities or others on a local or regional basis; (b) has an abatement plan that has been either adopted or is being utilized to respond to the opioid epidemic; (c) is currently either providing or is contracting with others to provide substance abuse prevention, recovery, and treatment services to its citizens; and (d) has or enters into an agreement with a majority of Municipalities (Majority is more than 50% of the Municipalities' total population) related to the expenditure of Opioid Funds. The Opioid Funds to be paid to a Qualified County will only include Opioid Funds for Municipalities whose claims are released by the Municipality or Opioid Funds for Municipalities whose claims are otherwise barred.

16. "SAMHSA" shall mean the U.S. Department of Health & Human Services, Substance Abuse and Mental Health Services Administration.

17. "Settlement" shall mean the negotiated resolution of legal or equitable claims against a Pharmaceutical Supply Chain Participant when that resolution has been jointly entered into by the State and Local Governments or a settlement class as described in (B)(1) below.

18. "State" shall mean the State of Florida.

**B. Terms**

1. **Only Abatement -** Other than funds used for the Administrative Costs and Expense Fund as hereinafter described in paragraph 6 and paragraph 9, respectively), all Opioid Funds shall be utilized for Approved Purposes. To accomplish this purpose, the State will either file a new action with Local Governments as Parties or add Local Governments to its existing action, sever settling defendants, and seek entry of a consent order or other order binding both the State, Local Governments, and Pharmaceutical Supply Chain Participant(s) ("Order"). The Order may be part of a class action settlement or similar device. The Order shall provide for continuing jurisdiction of a state court to address non-performance by any party under the Order. Any Local Government that objects to or refuses to be included under the Order or entry of documents necessary to effectuate a Settlement shall not be entitled to any Opioid Funds and its portion of Opioid Funds shall be distributed to, and for the benefit of, the other Local Governments.

2. **Avoid Claw Back and Recoupment** - Both the State and Local Governments wish to maximize any Settlement and Opioid Funds. In addition to committing to only using funds for the Expense Funds, Administrative Costs and Approved Purposes, both Parties will agree to utilize a percentage of funds for the core strategies highlighted in Exhibit A. Exhibit A contains the programs and strategies prioritized by the U.S. Department of Justice and/or the U.S. Department of Health & Human Services ("Core Strategies"). The State is trying to obtain the United States' agreement to limit or reduce the United States' ability to recover or recoup monies from the State and Local Government in exchange for prioritization of funds to certain projects. If no agreement is reached with the United States, then there will be no requirement that a percentage be utilized for Core Strategies.

3. **Distribution Scheme** - All Opioid Funds will initially go to the State, and then be distributed according to the following distribution scheme. The Opioid Funds will be divided into three funds after deducting costs of the Expense Fund detailed in paragraph 9 below:

(a) City/County Fund- The city/county fund will receive 15% of all Opioid Funds to directly benefit all Counties and Municipalities. The amounts to be distributed to each County and Municipality shall be determined by the Negotiation Class Metrics or other metrics agreed upon, in writing, by a County and a Municipality. For Local Governments that are not within the definition of County or Municipality, those Local Governments may receive that government's share of the City/County Fund under the Negotiation Class Metrics, if that government executes a release as part of a Settlement. Any Local Government that is not within the definition of County or Municipality and that does not execute a release as part of a Settlement shall have its share of the City/County Fund go to the County in which it is located.

(b) Regional Fund- The regional fund will be subdivided into two parts.

(i) The State will annually calculate the share of each County within the State of the regional fund utilizing the sliding scale in section 4 of the allocation contained in the Negotiation Class Metrics or other metrics that the Parties agree upon.

(ii) For Qualified Counties, the Qualified County's share will be paid to the Qualified County and expended on Approved Purposes, including the Core Strategies identified in Exhibit A, if applicable.

(iii) For all other Counties, the regional share for each County will be paid to the Managing Entities providing service for that County. The Managing Entities will be required to expend the monies on Approved Purposes, including the Core Strategies. The Managing Entities shall endeavor to the greatest extent possible to expend these monies on counties within the State that are non-Qualified Counties and to ensure that there are services in every County.

(c) State Fund - The remainder of Opioid Funds after deducting the costs of the Expense Fund detailed in paragraph 9, the City/County Fund and the Regional Fund will be expended by the State on Approved Purposes, including the provisions related to Core Strategies, if applicable.

(d) To the extent that Opioid Funds are not appropriated and expended in a year by the State, the State shall identify the investments where settlement funds will be deposited. Any gains, profits, or interest accrued from the deposit of the Opioid Funds to the extent that any funds are not appropriated and expended within a calendar year, shall be the sole property of the Party that was entitled to the initial deposit.

4. Regional Fund Sliding Scale- The Regional Fund shall be calculated by utilizing the following sliding scale of the Opioid Funds available in any year:

A. Years 1-6: 40%

B. Years 7-9: 35%

C. Years 10-12: 34%

D. Years 13-15: 33%

E. Years 16-18: 30%

5. Opioid Abatement Taskforce or Council - The State will create an Opioid Abatement Taskforce or Council (sometimes hereinafter "Taskforce" or "Council") to advise the Governor, the Legislature, Florida's Department of Children and Families ("DCF"), and Local Governments on the priorities that should be addressed as part of the opioid epidemic and to review how monies have been spent and the results that have been achieved with Opioid Funds.

(a) Size - The Taskforce or Council shall have ten Members equally balanced between the State and the Local Governments.

(b) Appointments Local Governments - Two Municipality representatives will be appointed by or through Florida League of Cities. Two county representatives, one from a Qualified County and one from a county within the State that is not a Qualified County, will be appointed by or through the Florida Association of Counties. The final representative will alternate every two years between being a county representative (appointed by or through Florida Association of Counties) or a Municipality representative (appointed by or through the Florida League of Cities). One Municipality representative must be from a city of less than 50,000 people. One county representative must be from a county less than 200,000 people and the other county representative must be from a county whose population exceeds 200,000 people.

(c) Appointments State -

(i) The Governor shall appoint two Members.

(ii) The Speaker of the House shall appoint one Member.

(iii) The Senate President shall appoint one Member.

(iv) The Attorney General or her designee shall be a Member.

(d) Chair - The Attorney General or designee shall be the chair of the Taskforce or Council.

(e) Term - Members will be appointed to serve a two-year term.

(f) Support - DCF shall support the Taskforce or Council and the Taskforce or Council shall be administratively housed in DCF.

(g) Meetings - The Taskforce or Council shall meet quarterly in person or virtually using communications media technology as defined in section 120.54(5)(b)(2), Florida Statutes.

(h) Reporting - The Taskforce or Council shall provide and publish a report annually no later than November 30th or the first business day after November 30th, if November 30th falls on a weekend or is otherwise not a business day. The report shall contain information on how monies were spent the previous fiscal year by the State, each of the Qualified Counties, each of the Managing Entities, and each of the Local Governments. It shall also contain recommendations to the Governor, the Legislature, and Local Governments for priorities among the Approved Purposes for how monies should be spent the coming fiscal year to respond to the opioid epidemic.

(i) Accountability - Prior to July 1st of each year, the State and each of the Local Governments shall provide information to DCF about how they intend to expend Opioid Funds in the upcoming fiscal year. The State and each of the Local Government shall report its expenditures to DCF no later than August 31st for the previous fiscal year. The Taskforce or Council will set other data sets that need to be reported to DCF to demonstrate the effectiveness of Approved Purposes. All programs and expenditures shall be audited annually in a similar fashion to SAMHSA programs. Local Governments shall respond and provide documents to any reasonable requests from the State for data or information about programs receiving Opioid Funds.

(j) Conflict of Interest - All Members shall adhere to the rules, regulations and laws of Florida including, but not limited to, Florida Statute §112.311, concerning the disclosure of conflicts of interest and recusal from discussions or votes on conflicted matters.

6. **Administrative Costs**- The State may take no more than a 5% administrative fee from the State Fund ("Administrative Costs") and any Regional Fund that it administers for counties that are not Qualified Counties. Each Qualified County may take no more than a 5% administrative fee from its share of the Regional Funds.

7. **Negotiation of Non-Multistate Settlements** - If the State begins negotiations with a Pharmaceutical Supply Chain Participant that is separate and apart from a multi-state negotiation, the State shall include Local Governments that are a part of the Negotiating Committee in such negotiations. No Settlement shall be recommended or accepted without the affirmative votes of both the State and Local Government representatives of the Negotiating Committee.

8. **Negotiation of Multistate or Local Government Settlements** - To the extent practicable and allowed by other parties to a negotiation, both Parties agree to communicate with

members of the Negotiation Committee regarding the terms of any other Pharmaceutical Supply Chain Participant Settlement.

9. **Expense Fund** - The Parties agree that in any negotiation every effort shall be made to cause Pharmaceutical Supply Chain Participants to pay costs of litigation, including attorneys' fees, in addition to any agreed to Opioid Funds in the Settlement. To the extent that a fund sufficient to pay the entirety of all contingency fee contracts for Local Governments in the State of Florida is not created as part of a Settlement by a Pharmaceutical Supply Chain Participant, the Parties agree that an additional expense fund for attorneys who represent Local Governments (herein "Expense Fund") shall be created out of the City/County fund for the purpose of paying the hard costs of a litigating Local Government and then paying attorneys' fees.

(a) The Source of Funds for the Expense Fund- Money for the Expense Fund shall be sourced exclusively from the City/County Fund.

(b) The Amount of the Expense Fund- The State recognizes the value litigating Local Governments bring to the State of Florida in connection with the Settlement because their participation increases the amount Incentive Payments due from each Pharmaceutical Supply Chain Participant. In recognition of that value, the amount of funds that shall be deposited into the Expense fund shall be contingent upon on the percentage of litigating Local Government participation in the Settlement, according to the following table:

| Litigating Local Government Participation in the Settlement (by percentage of the population) | Amount that shall be paid into the Expense Fund from (and as a percentage of) the City/County fund |
|---|---|
| 96 to 100% | 10% |
| 91 to 95% | 7.5% |
| 86 to 90% | 5% |
| 85% | 2.5% |
| Less than 85% | 0% |

If fewer than 85% percent of the litigating Local Governments (by population) participate, then the Expense Fund shall not be funded, and this Section of the MOU shall be null and void.

(c) The Timing of Payments into the Expense Fund- Although the amount of the Expense Fund shall be calculated based on the entirety of payments due to the City/County fund over a ten to eighteen year period, the Expense Fund shall be funded entirely from payments made by Pharmaceutical Supply Chain Participants during the first two years of the Settlement. Accordingly, to offset the amounts being paid from the City/County to the Expense Fund in the first two years, Counties or Municipalities may borrow from the Regional Fund during the first two years and pay the borrowed amounts back to the Regional Fund during years three, four, and five.

For the avoidance of doubt, the following provides an illustrative example regarding the calculation of payments and amounts that may be borrowed under the terms of this MOU, consistent with the provisions of this Section:

| | |
|---|---|
| Opioid Funds due to State of Florida and Local Governments (over 10 to 18 years): | $1,000 |
| Litigating Local Government Participation: | 100% |
| City/County Fund (over 10 to 18 years): | $150 |
| Expense Fund (paid over 2 years): | $15 |
| Amount Paid to Expense Fund in 1st year: | $7.5 |
| Amount Paid to Expense Fund in 2nd year | $7.5 |
| Amount that may be borrowed from Regional Fund in 1st year: | $7.5 |
| Amount that may be borrowed from Regional Fund in 2nd year: | $7.5 |
| Amount that must be paid back to Regional Fund in 3rd year: | $5 |
| Amount that must be paid back to Regional Fund in 4th year: | $5 |
| Amount that must be paid back to Regional Fund in 5th year: | $5 |

(d) Creation of and Jurisdiction over the Expense Fund- The Expense Fund shall be established, consistent with the provisions of this Section of the MOU, by order of the Circuit Court of the Sixth Judicial Circuit in and for Pasco County, West Pasco Division New Port Richey, Florida, in the matter of *The State of Florida, Office of the Attorney General, Department of Legal Affairs v. Purdue Pharma L.P., et al.*, Case No. 2018-CA-001438 (the "Court"). The Court shall have jurisdiction over the Expense Fund, including authority to allocate and disburse amounts from the Expense Fund and to resolve any disputes concerning the Expense Fund.

(e) Allocation of Payments to Counsel from the Expense Fund- As part of the order establishing the Expense Fund, counsel for the litigating Local Governments shall seek to have the Court appoint a third-neutral to serve as a special master for purposes of allocating the Expense Fund. Within 30 days of entry of the order appointing a special master for the Expense Fund, any counsel who intend to seek an award from the Expense Fund shall provide the copies of their contingency fee contracts to the special master. The special master shall then build a mathematical model, which shall be based on each litigating Local Government's share under the Negotiation Class Metrics and the rate set forth in their contingency contracts, to calculate a proposed award for each litigating Local Government who timely provided a copy of its contingency contract.

10. **Dispute resolution-** Any one or more of the Local Governments or the State may object to an allocation or expenditure of Opioid Funds solely on the basis that the allocation or expenditure at issue (a) is inconsistent with the Approved Purposes; (b) is inconsistent with the distribution scheme as provided in paragraph 3, or (c) violates the limitations set forth herein with respect to administrative costs or the Expense Fund. There shall be no other basis for bringing an objection to the approval of an allocation or expenditure of Opioid Funds.

## 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**")[, such that a minimum of __% of the [aggregate] state-level abatement distributions shall be spent on [one or more of] them annually].[1]

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 non-Medicaid eligible or uninsured individuals;

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. 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 with other support services.

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 Opioid Use Disorder (OUD) including housing, transportation, job placement/training, and childcare.

D. Expanding Treatment for Neonatal Abstinence Syndrome

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.

[1] As used in this Schedule A, words like "expand," "fund," "provide" or the like shall not indicate a preference for new or existing programs. Priorities will be established through the mechanisms described in the Term Sheet.

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

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, the following:[2]

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. 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.

8. 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. Fellowships for addiction medicine specialists for direct patient care, instructors, and clinical research for treatments.

11. Scholarships and supports for behavioral health practitioners or workers involved in addressing OUD and any co-occurring SUD or mental health conditions, including but not limited to training,

[2] As used in this Schedule B, words like "expand," "fund," "provide" or the like shall not indicate a preference for new or existing programs. Priorities will be established through the mechanisms described in the Term Sheet.

scholarships, fellowships, loan repayment programs, or other incentives for providers to work in rural or underserved areas.

12. [Intentionally Blank – to be cleaned up later for numbering]

13. 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.

14. Dissemination 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.

15. Development and dissemination of 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 treatment for or 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 following:

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. 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 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, the following:

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 Screening, Brief Intervention and Referral to Treatment (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. 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, the following:

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:

a. Self-referral strategies such as the Angel Programs or the Police Assisted Addiction Recovery Initiative (PAARI);

b. Active outreach strategies such as the Drug Abuse Response Team (DART) model;

c. “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;

d. Officer prevention strategies, such as the Law Enforcement Assisted Diversion (LEAD) model;

e. Officer intervention strategies such as the Leon County, Florida Adult Civil Citation Network or the Chicago Westside Narcotics Diversion to Treatment Initiative; or

f. 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 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 (CTI), 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, the following:

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. Training for obstetricians or other healthcare personnel that 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; 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 Neonatal Abstinence Syndrome get referred to appropriate services and receive a plan of safe care.

6. Child and family supports for parenting women with OUD and any co-occurring SUD/MH conditions.

7. Enhanced family supports 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. 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. Fund medical provider education and outreach regarding best prescribing practices for opioids consistent with 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. Support for non-opioid pain treatment alternatives, including training providers to offer or refer to multi-modal, evidence-informed treatment of pain.

5. Support enhancements or improvements to Prescription Drug Monitoring Programs (PDMPs), including but not limited to improvements that:

a. Increase the number of prescribers using PDMPs;

b. 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

c. 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. Increase electronic prescribing to prevent diversion or forgery.

8. Educate 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. Fund 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. Fund community anti-drug coalitions that engage in drug prevention efforts.

6. Support 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. Engage non-profits and faith-based communities as systems to support prevention.

8. Fund 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 of 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 other 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. Increase 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, individuals at high risk of overdose, schools, community navigators and outreach workers, persons being released from jail or prison, or other members of the general public.

2. Public health entities provide 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. Enable school nurses and other school staff to respond to opioid overdoses, and provide them with naloxone, training, and support.

5. Expand, improve, or develop 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. Educate 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. Expand access to testing and treatment for infectious diseases such as HIV and Hepatitis C resulting from intravenous opioid use.

11. Support 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. Provide 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. Support screening for fentanyl in routine clinical toxicology testing.

PART THREE: OTHER STRATEGIES

## I. FIRST RESPONDERS

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

1. Educate 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, facilitation, 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; to support training and technical assistance; or to support other strategies to abate the opioid epidemic described in this opioid abatement strategy list.

2. A dashboard to share reports, recommendations, or plans to spend opioid settlement funds; to show how opioid settlement funds have been spent; to report program or strategy outcomes; or to track, share, or visualize key opioid-related 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, the following:

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.