

Counties Distribution Agreement

WHEREAS, the Counties of Arkansas, the Cities and Towns of Arkansas, and the State of Arkansas have united in litigation and lodged united claims in bankruptcies seeking to hold pharmaceutical supply chain participants accountable for the harms of the opioid epidemic across Arkansas; and

WHEREAS, the Counties of Arkansas, the Cities and Towns of Arkansas, and the State of Arkansas have entered into the Arkansas Opioids Memorandum of Understanding providing that all opioid settlement funds and funds from opioid bankruptcy plans shall be divided with 1/3 going to the Counties, 1/3 going to the Cities and Towns, and 1/3 going to the State—and providing further that all opioid funds shall be used in a manner consistent with approved purposes, any settlement agreements, and any orders approving settlements; and

WHEREAS, the Arkansas Opioids MOU provides for the establishment of a Counties Distribution Agreement governing the allocation, distribution, and use of opioid settlement funds in a manner consistent with approved purposes, any settlement agreements, and any orders approving settlements; and

WHEREAS, the Association of Arkansas Counties (“AAC”) has served and continues to serve as counsel for most Arkansas Counties in opioid litigation; and

WHEREAS, the Arkansas Municipal League (“AML”) has served and continues to serve as counsel for most Arkansas Cities and Towns in opioid litigation; and

WHEREAS, multiple settlements and bankruptcy plans are finalized, or will soon be finalized—with payments to Arkansas governments likely to begin this year (2022); and

WHEREAS, the AAC and AML have petitioned a court to create a Qualified Settlement Fund for receipt and disbursement of County and City/Town opioid settlement funds—*Crittenden County v. Perry County Food & Drug, Inc.*, Crittenden County Circuit Court No. 18CV-22-355; and

WHEREAS, the AAC and AML are working jointly to create a program for disbursing settlement funds to abate the opioid epidemic across Arkansas, in a manner consistent with approved purposes, any settlement agreements, and any orders approving settlements (the “Arkansas Opioid Recovery Partnership”); and

WHEREAS, all 75 Arkansas Counties are participants in the final/master Distributors Settlement Agreement (among other settlements); and

WHEREAS, the final/master Distributors Settlement Agreement includes default subdivision allocation percentages for Arkansas Counties and Arkansas Cities and Towns

(Exhibit G to the Distributors Settlement Agreement)¹, based on a formula weighting factors relevant to the impact of the opioid epidemic on individual Counties and Cities and Towns; and

WHEREAS, using the same formula used in Exhibit G to the Distributors Settlement Agreement, Arkansas counties can be assigned percentages² vis-à-vis other Arkansas counties, for purposes of calculating individual county allocations from the Counties Share (1/3) under the Arkansas Opioids MOU; and

WHEREAS, the final/master Distributors Settlement Agreement includes a provision (Exhibit O to the Distributors Settlement Agreement)³ providing that a state subdivision agreement such as the Arkansas Opioids MOU is agreed when it is approved by the State and more than 60% of a state's subdivisions; and

WHEREAS, 72 of 75 Arkansas Counties have executed acknowledgments of authority under which the Counties authorize the AAC Director to negotiate and agree on behalf of the Counties, concerning the allocation and use of opioid settlement money⁴; and

WHEREAS, 88 high-population Arkansas Cities and Towns have executed acknowledgments of authority under which the Cities and Towns authorize the AML Director to negotiate and agree on behalf of the Cities and Towns, concerning the allocation and use of opioid settlement money.

¹ The Arkansas subdivision allocation percentages reflected in Exhibit G to the Distributors Settlement Agreement are attached to this Counties Distribution Agreement as Exhibit 1.

² The individual county allocation percentages, derived from the formula used in Exhibit G to the Distributors Settlement Agreement, are attached to this Counties Distribution Agreement as Exhibit 2.

³ Exhibit O to the Distributors Settlement Agreement is attached to this Counties Distribution Agreement as Exhibit 3.

⁴ The signed acknowledgments of 72 Arkansas Counties are attached to this Counties Distribution Agreement as Exhibit 4.

Now Therefore, the Counties of Arkansas, by and through the Director of the Association of Arkansas Counties, hereby agree that:

1. This Counties Distribution Agreement is defined in § 1.6 of the Arkansas Opioids MOU as “an agreement among the Counties as to the allocation, distribution, and use” of opioid settlement funds. This Counties Distribution Agreement governs distribution of the Counties Share under the Arkansas Opioids MOU.

2. The percentages reflected in Exhibit 2, derived from Exhibit G to the Distributors Settlement Agreement, shall be used to calculate individual county allocations from the Counties’ Share (1/3) under the Arkansas Opioids MOU.

3. The Counties of Arkansas direct their abatement funding (the Counties Opioid Settlement Fund under the Arkansas Opioids MOU) to be disbursed by the Arkansas Opioid Recovery Partnership, in a manner consistent with approved purposes, any settlement agreements, and any orders approving settlements.

4. The Counties and the Cities and Towns, by agreement of the AAC Director and AML Director, will hire a Director of the Arkansas Opioid Recovery Partnership, and any necessary staff, to study the Arkansas opioid epidemic and make recommendations to the AAC and AML Directors regarding programs and strategies to abate the Arkansas opioid epidemic in a manner consistent with approved purposes, any settlement agreements, and any orders approving settlements.

5. The Counties and the Cities and Towns, by agreement of the AAC Director and AML Director, will empanel an advisory board with an equal number of members appointed by each Director, to study proposals and make recommendations to the AAC Director, the AML Director, and the Partnership Director, regarding programs and strategies to abate the Arkansas opioid epidemic in a manner consistent with approved purposes, any settlement agreements, and any orders approving settlements. Any board member who believes they may have a conflict of interest regarding a proposal shall disclose the conflict/potential conflict, and shall recuse from voting on any matter in which there is a conflict or potential conflict.

6. The Arkansas Opioid Recovery Partnership has the following mission statement:

Evaluate proposals, make recommendations, and empower evidence-based programs and strategies to abate the Arkansas opioid epidemic, in a manner consistent with approved purposes as defined in the Arkansas Opioids MOU, settlement agreements, and court orders approving settlements and bankruptcies.

7. The Arkansas Opioid Recovery Partnership is guided by the following principles:

- The Partnership seeks a shared framework for disbursing opioid abatement funds. Abatement efforts will be most effective if Arkansas governments unite and work cooperatively together, as they have in opioid litigation, on behalf of the people.
- The Partnership should seek to use limited funds to supplement and expand existing public and private abatement efforts and funding, rather than supplanting or duplicating existing abatement efforts and funding.
- The Partnership should fund public and private evidence-based projects, and funded projects should be evaluated for effectiveness moving forward, with ongoing funding contingent on demonstrated effectiveness as appropriate.
- The Partnership should fund public and private programs and strategies that abate the opioid epidemic at the community and family levels.
- The Partnership should support diversion from arrest/incarceration and should support access to peer support and treatment in correctional settings.
- The Partnership should fund anti-stigma programs and involve communities in education and prevention efforts.
- Priority should be given to evidence-based and evidence-informed prevention, treatment, recovery, or harm reduction programs, services, supports, and resources.
- The Partnership should ensure diversity of representation and funding, including racial and geographic diversity, including people with lived experience, and including less populated and geographically isolated communities.
- The Partnership will operate with all reasonable transparency.

8. Project/Funding proposals submitted to the Arkansas Opioid Recovery Partnership should adhere to the following guidelines:

- A proposal submitted by any person or entity other than the Partnership Director shall include a letter or letters of support signed by the county judge of each county to be served by the proposal, and the mayor of each first-class city to be served by the proposal. It is the applicant's responsibility to obtain the necessary signatures of county and city support.
- A proposal should demonstrate evidence-based strategies to abate the opioid epidemic in Arkansas, in a manner consistent with approved purposes as defined in the Arkansas Opioids MOU, settlement agreements, and court orders approving settlements and bankruptcies.
- A proposal should address the guiding principles of the Partnership outlined above, with honest and candid analysis of strengths and weaknesses of the proposal considering the guiding principles.
- A proposal should be designed to treat, prevent, and reduce opioid use disorder and the misuse of opioids or otherwise abate or remediate the opioid epidemic. Each proposal should discuss and demonstrate this nexus.

- A proposal should include suggested data and benchmarks/milestones to assist with evaluation of the effectiveness of the proposal if approved.
- A proposal should include a sustainment plan for continuation of the proposal after proposed funding from the Partnership.
- The Partnership may require outcome-related data from any entity that receives abatement funds.
- The Partnership may require a proposal to achieve benchmarks/milestones as a condition of ongoing funding. Project funding is not guaranteed and may be dependent on completion of deliverables and reporting. Noncompliance with state or federal law, noncompliance with guidelines, or noncompliance with project benchmarks/milestones, may result in funding termination.

9. The Counties and the Cities and Towns, by agreement of the AAC Director and AML Director, may adopt funding and payment rules and guidelines, and other rules and guidelines, as necessary and appropriate to administer the Partnership.

10. The Counties and the Cities and Towns, by agreement of the AAC Director and AML Director, will establish a nonprofit foundation eligible to receive grants and/or charitable contributions from sources other than settlements and bankruptcies governed by the Arkansas Opioids MOU. The foundation will use funds received to support abatement of the Arkansas opioid epidemic.

11. The Counties of Arkansas desire the State as an equal 1/3 participant in the Partnership.

Chris Villines, Director
Association of Arkansas Counties

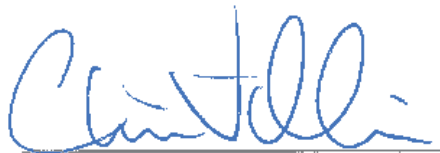
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