

## OneOhio

### Summary of Proposed Settlement with AmerisourceBergen, Cardinal Health and McKesson

A settlement proposal is being presented to you for your consideration concerning the opioid litigation with AmerisourceBergen, Cardinal Health and McKesson (the Distributors). The settlement is being offered by the Distributors for resolution of governmental entity claims in the State of Ohio. The proposal utilizes the structure of the OneOhio agreement between the State of Ohio and its subdivisions, subject to one modification discussed below

Under the proposal, the Distributors will pay up to \$829,000,000 to the State of Ohio and its subdivisions over 18 years. Under the OneOhio agreement, these funds will be distributed according to the following allocation: 15% directly to the State of Ohio; 30% directly to subdivisions; and 55% to the OneOhio Foundation (to be utilized for the benefit of the subdivisions across the State of Ohio). Most of the money will be restricted in use and specifically earmarked for abatement of the Opioid Epidemic. Developed in consultation with the nation's leading public health experts, the list of pre-approved uses includes a wide range of intervention, treatment, education, and recovery services so that the state and its subdivisions can decide what will serve their communities.

Participation levels (the percentage of Ohio cities and counties who agree to the deal) will affect how much money the State of Ohio and its subdivisions will receive. About 45% of abatement funds are in the form of "incentive payments" which provide incentives for higher levels of participation. With the goal of getting funds to the community as fast as possible, if 95% participation is reached, abatement funds will begin flowing to the State of Ohio and its subdivisions. Portions of the annual payment to each state may be subject to "suspension" (i.e., placed in escrow) in the event primary subdivisions bring or expand litigation against the distributors past specified suspension deadlines.

Because 45% of the funds are paid in the form of incentive payments, in order for the State of Ohio and its subdivisions to maximize recovery under the proposed settlement, it is critical that participation meets or exceeds 95%. The following is a summary of the base payment and incentive structure:

- Once a state agrees to participate, it is eligible to receive 55% of the funds as a "base payment."
- The remaining 45% can be obtained through a combination of "incentive payments."
- "Incentive A" is up to 40% of the remaining funds. Incentive A is paid if the Litigating subdivisions agree to participate and the State of Ohio enacts legislation to prohibit subdivisions who have not brought claims from bringing them in the future. An alternative would be a total legislative bar. To allow time for the State to enact legislation, Incentive A will be paid in the first two payments, regardless of whether the legislation has been passed. Any overpayment in year one and two will offset future

payment. If Incentive A is not achieved, the State of Ohio can obtain the same amount of funds through Incentives B and C. Incentives B and C are alternatives to Incentive A.

- “Incentive B” is up to 25% of the remaining funds. Incentive B is paid on a sliding scale depending on the population of Litigating Subdivisions that are Participating Subdivisions compared to total population of all Litigating Subdivisions in the State. Must have at least 85% to get any share of Incentive B. However the AG has indicated we need 95%
- “Incentive C” is up to 15% of the remaining funds. Incentive C is paid on a sliding scale depending on the population of Litigating Subdivisions and of Non Litigating Subdivisions that have a population over 30,000 that are Participating Subdivisions compared to the total population of all Litigating Subdivisions and of all Non Litigating Subdivisions with a population over 30,000 in the state. Must have at least 60% to get any share of Incentive C.
- “Incentive D” is 5% of the remaining funds. Incentive D is paid starting in year 6 if the State of Ohio has had no later Litigating Subdivisions bring suit and proceed past preliminary motions in the prior 5 years.

The settlement is only open to governmental entities. Claims brought on behalf of private individuals and businesses (including third-party payers like health and welfare funds and insurers) are not included (and are not released), although individuals, businesses and payers will benefit from the Opioid Remediation funding and injunctive relief provided in the settlements.

In an effort to reduce attorney fees for the subdivisions and potentially increase recovery to the Foundation, attorneys for the subdivisions have agreed to amend OneOhio such that any attorney fees paid by the Distributors for contingency contracts and funding of the Local Government Fee Fund (“LGFF”) from OneOhio will be used to satisfy contingency contracts. Previously OneOhio called for 60% of the LGFF to be utilized for common benefit assessment in the national litigation. By utilizing 100% the LGFF for the contingency fees, there becomes a greater likelihood that the LGFF will have a surplus, which, would revert to the Foundation for the benefit of all subdivisions. Any attorney or law firm receiving fees through this settlement would be required to waive enforcement against their client of any amounts owed in excess of fees recovered through the LGFF.

In addition to money to be used for abatement of the effects of the Opioid epidemic, the settlement provides robust injunctive relief that will require the Distributors make significant changes in the way they conduct their business. Among other changes, the Distributors must follow substantially increased and improved measures to identify suspicious orders and pharmacy customers, under the oversight of an independent third-party monitor. The Distributors each must begin using a clearinghouse that accounts not only for their own opioid shipments, but the shipments of the other distributors. This enables, for the first time, a truer

picture of overall opioids distribution and requires drug distributors to alter their shipments based on the shipments by others. This clearinghouse will use the Distributors' collective data to establish pharmacy-specific opioid shipment limits that each Distributor must follow.

Finally, we ask that you review the chart provided to understand the amount of money your subdivision would receive as their direct 30% share through this proposal. You will note that there are two numbers listed. The lower number is the amount your subdivision is estimated to recover if we reach the minimum threshold of participation. The higher number represents the amount your subdivision is estimated to recover if we meet Incentive A or the 100% participation level.