

**MAINE STATE-SUBDIVISION MEMORANDUM OF UNDERSTANDING AND
AGREEMENT REGARDING USE OF SETTLEMENT FUNDS-2023**

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

Whereas, the State of Maine, through its Attorney General, and certain Subdivisions, 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; and,

Whereas, the State of Maine, through its Attorney General, and its Subdivisions share a common desire to abate and alleviate the impacts of that misfeasance, nonfeasance and malfeasance throughout the State of Maine;

Now therefore, the State and its Subdivisions, subject to completion of formal documents effectuating the Parties' agreements, enter into this Memorandum of Understanding ("MOU") relating to the allocation and use of the proceeds of Settlements described.

This agreement is subject to the requirements of the Subsequent Opioid Settlements, as defined herein, as well as applicable law. Terms used in this MOU have the same meaning as in those used in the Subsequent Opioid Settlements unless otherwise defined herein.

I. DEFINITIONS

A. "2022 State-Subdivision MOU" shall mean the agreement titled 'Maine State-Subdivision Memorandum of Understanding And Agreement Regarding Use of Settlement Funds', dated January 26, 2022 and as amended on June 13, 2022.

B. "Approved Uses" shall mean those uses identified in the List of Opioid Remediation Uses, attached as Exhibit E to the National Opioid Settlement, and those uses identified as "Approved Opioid Abatement Uses" in Schedules A and B to Exhibit G to the Notice of Filing of Eighth Plan Supplement Pursuant to the Fifth Amended Joint Chapter 11 Plan of Reorganization of Purdue Pharma L.P. and its Affiliated Debtors, In re: Purdue Pharma L.P., et al., Case No. 19-23649-RDD, Dkt. 3121 (Bankr. S.D. N.Y. July 8, 2021), and attached as Exhibits I and 2 to the 2022 State-Subdivision MOU and attached hereto as Exhibits 1 and 2.

C. "Direct Share Subdivisions" means a plaintiff subdivision that has filed a complaint against a Pharmaceutical Supply Chain entity and/or a subdivision with a population equal to or greater than 10,000. For the avoidance of doubt, the 39 eligible Direct Share Subdivisions are as identified on Exhibit 3 hereto.

D. "Effective Date" means the first date on which a court of competent jurisdiction,

including any bankruptcy court, enters a Subsequent Opioid Settlement by order or consent decree.

E. The "Maine Recovery Fund" means the fund created by the 2022 State-Subdivision MOU, the funds of which will be used for the purposes of opioid abatement.

F. The "National Opioid Settlement" means the National Distributor and J&J Settlements Agreement, dated as of July 21, 2021, and any revision thereto.

G. "Opioid Funds" means all funds allocated by any Subsequent Opioid Settlement to the State or Direct Share Subdivisions for purposes of opioid abatement activities. Not included are funds made available in any Subsequent Opioid Settlement for the payment of the Parties' litigation expenses or the reimbursement of the United States Government.

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

I. "Recovery Fund Council" means the Council created in Section III of the 2022 State-Subdivision MOU.

J. "Subsequent Opioid Settlement" means a statewide settlement reached with a non-bankrupt manufacturer of, distributor of, or pharmacy prescribing, opioids subsequent to the National Opioid Settlement pursuant to which certain Maine political subdivisions are eligible to participate and share in funds for opioid abatement ("Opioid Funds") in exchange for releases.

II. DISTRIBUTION OF FUNDS

A. **Applicability of Agreement.** Unless otherwise stated in this Agreement, these terms shall apply to any Subsequent Opioid Settlement.

B. **Approved Uses.** All Opioid Funds, regardless of allocation, shall be utilized for approved uses. The Parties in Section II.C are strongly encouraged to use Opioid Funds solely to supplement and strengthen, rather than supplant, resources for the approved uses described herein including for opioid use disorder prevention, harm reduction, treatment and recovery.

C. **Division of Funds.** All Opioids Funds allocated to the State of Maine and the Subdivisions are to be distributed as follows:

1. **20%** to the State of Maine Attorney General to be used on Approved Uses.
2. **30%** to the Direct Share Subdivisions for spending on Approved Uses to be allocated in accordance with Exhibit 3.
3. **50%** to be placed in the Maine Recovery Fund which are to be spent on Approved Uses as directed by the Recovery Council.

The Direct Share Subdivisions' shares shall be distributed directly to each Direct Share Subdivision by the National Settlement Administrator. Monies in the Maine Recovery Fund shall be distributed by the Treasurer of the State as described below. Any Direct Share Subdivision may form agreements or ventures or otherwise work in collaboration with federal, state, local, tribal or private sector entities in pursuing Opioid Remediation activities funded from their directshare distribution or funded by the Recovery Fund. Because the State did not hire outside counsel, any funds for attorney fees that the State receives from the Supplemental Opioid Settlements will be deposited into the Attorney General's share.

III. THE MAINE RECOVERY COUNCIL

The parties agree that the existing Maine Recovery Council, as established by Section III of the 2022 State-Subdivision MOU, shall administer payments made to the Recovery Fund from any Subsequent Opioid Settlement. Except as otherwise stated in this Agreement, the terms of Section III of the 2022 State-Subdivision MOU shall govern the establishment, existence, and operation of the Recovery Council. In the event the 2022 State-Subdivision MOU is terminated or otherwise ceases to be in effect, the terms of this Section III shall govern the establishment, existence, and operation of the Recovery Council.

A Recovery Fund Council (the "Council") consisting of representatives appointed by the State and subdivisions, shall be created to direct the disbursement of recovery funds for recovery purposes on a statewide basis for the uses allowed by this MOU.

Membership: The Recovery Council shall consist of eleven (11) members, who shall serve in their official capacity only.

Subdivision Members: The Recovery Council shall include at least 4 members from the plaintiff cities or counties to be selected by them.

State Members. Four (4) members shall be appointed by the State as follows:

- a. The Governor shall appoint two members
- b. The Speaker of the House or his designee
- c. The President of the Senate or his designee

Public Members. The Attorney General shall appoint three (3) public members from among the following:

- a. Individuals or family members impacted by the Opioid Crisis
- b. Individuals with substance use disorder and recovery community experience,
- c. Public health experts in treatment and or prevention.

The Legislature may add members to the Council for up to a maximum of fifteen (15).

Terms: The Recovery Council shall be established within ninety (90) days of the Effective Date and initial members appointed. Members may serve no more than two (2) consecutive two-

year terms, for a total of four (4) consecutive years.

Duties: The Recovery Council is primarily responsible for ensuring that the distribution of Recovery Funds complies with the terms of the MOU and the Agreement entitled “Maine School Administrative Units’ Inclusion in Maine’s Recovery Fund”. It shall meet at least twice within each calendar year either in person or via a remote meeting method as allowed by Maine law.

Governance: The Recovery Council shall draft its own bylaws or other governing documents, which must include appropriate conflict of interest provisions, in accordance with this MOU and the following principles:

- a. **Authority:** The Recovery Council does not have any rulemaking authority. The terms of the MOU and Agreement and any Settlement, as entered by a Court of competent jurisdiction control the authority of the Recovery Council and the Recovery Council shall not stray outside the bounds of the authority and power vested by this MOU and any Court approved Settlement.
- b. **Administration:** The Recovery Council is responsible for accounting of all Recovery Funds and for releasing Recovery Funds.

Transparency: The Recovery Council shall operate with all reasonable transparency and in compliance with Maine’s Freedom of Access Law 1 MRS sections 401 et seq.

The Recovery Council shall develop a centralized public dashboard or other repository for publication of expenditure data from any party or Regional Council that receives Recovery Funds. The Council may require outcome related data from any entity that receives Recovery Funds. For purposes of funding the centralized dashboard, the Council shall make every effort to use existing state resources.

Collaboration: The Recovery Council shall facilitate collaboration among the State, subdivisions, Regional Councils and other stakeholders for the purposes of sharing data, outcomes, strategies and other relevant information related to abating the opioid crisis in Maine.

Decision Making: The Recovery Council shall make all decisions by consensus. In the event consensus cannot be achieved, unless otherwise required by this MOU, the Council shall make decisions by 3/5 vote of its members.

Legal Representation: The Attorney General shall provide legal counsel and administrative support to the Recovery Council. The Council may use funds to hire additional administration support if necessary.

Compensation: No member of the Recovery Council shall be compensated for their work related to the Recovery Council.

IV. THE MAINE RECOVERY FUND

A. Fund Established. The parties agree that the existing Maine Recovery Fund, as established by Section IV of the 2022 State-Subdivision MOU, shall receive payments allocated in Section II herein from any Subsequent Opioid Settlement. Except as otherwise stated in this Agreement, the terms of Section IV of the 2022 State-Subdivision MOU shall govern the establishment, existence, and operation of the Recovery Fund. In the event the 2022 State-Subdivision MOU is terminated or otherwise ceases to be in effect, the terms of this Section IV shall govern the establishment, existence, and operation of the Recovery Council.

B. The Maine Recovery Fund is established for the purposes specified in this agreement as a separate and distinct fund for accounting and budgetary reporting purposes.

C. Sources of Fund. The State Controller shall credit to the fund:

1. All money designated to the Maine Recovery Fund for abatement in this agreement from any Subsequent Opioid Settlement;
2. Money from any other source, whether public or private, designated for deposit into or credited to the fund; and
3. Interest earned or other investment income on balances in the fund.

D. Unencumbered Balances. Notwithstanding any provision to the contrary in Section IV.C of the 2022 State-Subdivision MOU, any unencumbered balance remaining at the end of any fiscal year remains part of the Maine Recovery Fund, the account within the Office of the Attorney General established pursuant to this section and may be made available for expenditure by the Recovery Council in the same manner as other money in the Fund.

E. General Fund Limitation. Notwithstanding any provision to the contrary in this section, any program, expansion of a program, expenditure or transfer authorized by the Legislature using the Maine Recovery Fund may not be transferred to the General Fund without specific legislative approval.

F. Restricted Accounts. The State Controller is authorized to establish separate accounts within the fund in order to segregate money received by the fund from any source, whether public or private, that requires as a condition of the contribution to the fund that the use of the money contributed be restricted to approved uses. Money credited to a restricted account established under this subsection may be applied only to the purposes to which the account is restricted.

G. Adjustment to Allocations. For state fiscal years beginning on or after July 1, the State Budget Officer is authorized to adjust allocations if actual revenue collections for the fiscal year are less than the approved legislative allocations. The State Budget Officer shall review the programs receiving funds from the fund and shall adjust the funding in the All Other line category to stay within available resources. These adjustments must be calculated in proportion to each account's allocation in the All Other line category in relation to the total All Other allocation for fund programs. Notwithstanding any other provision of law, the

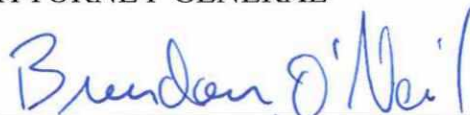
allocation for the identified amounts may be reduced by financial order upon the recommendation of the State Budget Officer and approval of the Governor. The State Budget Officer shall report annually on the allocation adjustments made pursuant to this subsection to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over health and human services matters by May 15th.

H. Separate Accounts; Annual Reporting. A state agency that receives allocations from the fund, and a county, a city, and a contractor or vendor that receives funding allocated from the fund shall maintain that money in a separate account and shall report by September 1st of each year to the Recovery Council providing a description of how those funds for the prior state fiscal year were targeted to the Approved Uses. The Attorney General shall by October 1st of each year compile the reports provided under this subsection and forward the information in a report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over health and human services matters. In addition to the compilation described in this subsection, the report must summarize the activity in any funds or accounts directly related to this section.

I. Legislative Committee Review of Legislation. Whenever a proposal in a resolve or bill before the Legislature, including but not limited to a budget bill, affects the fund, the Recovery Council, upon notice of the proposal from any source, may submit a request through its Chairperson to the joint standing committee of the Legislature having jurisdiction over the proposal, and to the joint standing committee of the Legislature having jurisdiction over health and human services matters, that the committee with jurisdiction over the proposal hold a public hearing and determine the level of support for the proposal among members of the committee. If there is support for the proposal among a majority of the members of the committee, the Recovery Council Chairperson may request that the committee request the joint standing committee of the Legislature having jurisdiction over health and human services matters review and evaluate the proposal as it pertains to the fund. The joint standing committee of the Legislature having jurisdiction over health and human services matters shall conduct the review and report to the committee of jurisdiction, to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs, and to the Recovery Council.

The Maine State-Subdivision Memorandum of Understanding and Agreement Regarding Use of Settlement Funds-2023 is signed by:

AARON M. FREY
ATTORNEY GENERAL

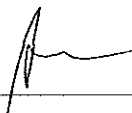


Assistant Attorney General

Date: May 2, 2023

6 State House Station
Augusta, ME 04333
207-626-8800

For the following Subdivision:



Signature

Date: 5/2/2023

Name: Shayna E. Sacks

Title: Partner

On behalf of: _____