

April 2023

Department of Justice

Opioid Settlement Update

Prescription Opioid Settlement Distribution Commission
Public Listening Sessions

General Landscape

- 4 Legs of the Stool
 - Prescription Opioid Impact Fee
 - Opioid Litigation Settlements and Bankruptcies
 - SB 166 (2021)
 - ROADS MAP Agreement
- GOALS:
 - ensure Delaware gets the most money possible
 - ensure monies get used to the maximum extent possible for abating the crisis.
 - Create one pot of money to address Delaware's opioid crisis in a coordinated and comprehensive fashion
- Scale: \$250 million anticipated
- Timeline- money is expected to come in over a decade and a half.



Court Cases and Bankruptcies

- Attorney General suit against
 - Manufacturers
 - Distributors
 - Pharmacies
- Delaware subdivision suits
 - Dover, Seaford, Kent, Sussex
 - NCC, Wilmington- have not filed suit
- Bankruptcies
 - Purdue
 - Mallinckrodt
 - Endo
- Door is open for additional multistate or AG suits.



Case Updates - Settled

Case	Status
Distributors (McKesson; Cardinal; Amerisource Bergen)	<ul style="list-style-type: none">• Settled• \$77m through 2038• First payment to Commission: \$3.5m in 2024
Johnson & Johnson	<ul style="list-style-type: none">• Settled• \$17.5m through 2031• First payment to Commission: \$13m in 2022
McKinsey	<ul style="list-style-type: none">• Settled• \$2.58m through 2025. \$2.25m of that already received.
Mallinckrodt	<ul style="list-style-type: none">• Emerged from Bankruptcy• \$4.8m through 2030



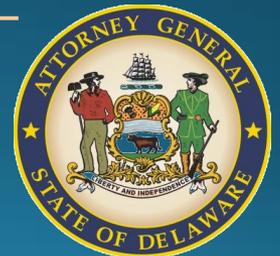
Case Updates - Remaining

Case	Status
Purdue and the Sackler Family	<ul style="list-style-type: none">• Bankruptcy Plan and Delaware Settlement on Appeal• Delaware objected and appealed; ultimately settled appeal for additional \$24 million• If approved in full: about \$45 million
Endo	<ul style="list-style-type: none">• In Bankruptcy. About \$2m anticipated.
Pharmacies	<ul style="list-style-type: none">• Settlement Pending
Teva and Allergan	<ul style="list-style-type: none">• Settlement Pending
Others	<ul style="list-style-type: none">• We continue to evaluate other possible defendants



Recent Pending Settlements

- 5 Settlements with potential maximum of more than \$80 million to Delaware: CVS, Walgreens, Walmart, Teva, and Allergan
- AG Jennings active in bringing these home; our office was part of the leadership group of states.
- As with prior settlements, the total funding distributed will be determined by the overall degree of subdivision participation.
 - FULL SUBDIVISION PARTICIPATION MEANS MORE MONEY, FASTER
- The money designated for abatement must be spent on opioid treatment and prevention.
- Separate pots of money available to cover attorney fees and costs.
- More Info: <https://nationalopioidsettlement.com/>



	Defendant	Type	Overall Amount	DE %	DE Amount	Schedule
Distributors	Amerisource Bergen, Cardinal, and McKesson	Settlement	\$18,554,013,691.13	0.49%	\$90,915,020.78	17 Years (End: Jul. 2038)
Pharmacies	CVS	Settlement	\$4,279,160,837.00	0.49%	\$20,934,860.25	10 Years (End: June 2032)
	Walgreens	Settlement	\$4,788,165,458.00	0.48%	\$22,764,467.93	15 Years (End: Dec. 2037)
	Walmart	Settlement	\$2,393,794,118.64	0.5%	\$11,855,087.08	1 year
Manufacturers	Janssen/Johnson & Johnson	Settlement	\$4,051,384,616.00	0.5%	\$20,060,426.44	9 years, heavily frontloaded (End: Jul. 2031)
	Mallinckrodt	Bankruptcy	~\$111,200,000	0.45%	~\$4,875,584.97	8 years, but prepay option (End: Jul 2030)
	Purdue / Sacklers	Bankruptcy – Approved Plan – On Appeal	~\$4,325,000,000	0.51%	~\$22,050,000	10 Years (End: Jun. 2031)
		Bankruptcy – Sackler Settlement – On Appeal	\$1,000,000,000		\$24,500,000	14 years (End: Jun. 2035)
	Teva	Settlement	\$2,945,529,111 (+ up to \$1.2b in Naloxone)	0.54%	\$15,826,546.62	13 Years (End: July 2035)
	Allergan	Settlement	\$1,799,186,751	0.52%	\$9,428,703.14	7 Years (End: July 2029)
	Endo	Bankruptcy – Pending	~\$450,000,000		\$2,020,500	10 years
Other	McKinsey	Settlement	\$573,919,331		\$2,584,804.92	5 years, heavily frontloaded (End: 2025)
				Total:	\$248,536,002.13	

^[1] Bankruptcy numbers are approximate due to prepayment options and the status of cases.

^[2] DE Abatement totals for Distributors and Janssen are before attorneys' fees and costs are deducted. Most such costs are expected to be recouped in the first four years.

SB 166 - Settlement Fund & Commission

- Ensures settlement money
 - Doesn't touch general fund
 - Must be used to remediate and abate the opioid crisis
 - May not supplant existing state/local funding
 - Jointly administered with Opioid Impact Fee Fund
- Commission deliberates on distribution of settlement funds.
- Representation from legislature, executive, DOJ, local governments, health experts, and those impacted by the opioid crisis.
- Commission must solicit input from the public.
- Goal:
 - Build consensus around spending and a process to last for a decade+.
 - Create a unified statewide response to the crisis with input by a broad swath of stakeholders.
 - Ensure subdivision participation in distribution discussions.
- Questions: Susan Holloway, Opioid Fund Program Director
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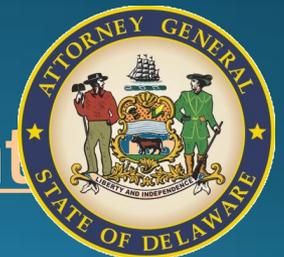
Settlements – Permitted Uses

- Exhibit E, Schedule A: Core Strategies
 - Naloxone or other FDA-Approved Drug to Reverse Opioid Overdoses
 - Medication-Assisted Treatment (“MAT”) Distribution and Other Opioid-Related Treatment
 - Pregnant and Post-Partum Women
 - Expanding Treatment for Neonatal Abstinence Syndrome
 - Expansion of Warm Hand-Off Programs and Recovery Services
 - Treatment for Incarcerated Population
 - Prevention Programs
 - Expanding Syringe Service Programs
 - Evidence-Based Data Collection and Research Analyzing the Effectiveness of the Abatement Strategies within the State
- More Info: <https://nationalopioidsettlement.com>



Settlements – Permitted Uses

- Exhibit E, Schedule B: Approved Uses
 - Treatment
 - Treat Opioid Use Disorder
 - Support People in Treatment and Recovery
 - Connect People to the Help they Need (Connections to Care)
 - Address the Needs of Criminal Justice-Involved Persons
 - Address the Needs of Pregnant or Parenting Women and their Families (incl. NAS Babies)
 - Prevention
 - Prevent Over-Prescribing and Ensure Appropriate Prescribing and Dispensing of Opioids
 - Prevent Misuse of Opioids
 - Prevent Overdose Deaths and Other Harms (Harm Reduction)
 - Other Strategies
 - First Responders
 - Leadership, Planning, and Coordination
 - Training
 - Research
- More Info: <https://nationalopioidsettlements.com>



Prescription Opioid Impact Fund – Permitted Uses

- 16 Del. C. 4803B(c): Permitted Uses

(1) Opioid addiction prevention.

(2) The following opioid addiction services:

a. Inpatient and outpatient treatment programs and facilities. . . .

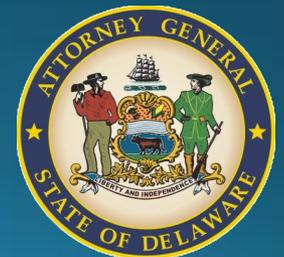
b. . . .[T]reating substance use disorder for the under-insured and uninsured.

c. Emergency assistance relating to prescription opioids. . . .

d. Peer support programs.

e. . . . [A]ddress adverse social determinants of health. . . , including family support services.

(3) The cost of administering this chapter





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