



# Minnesota Attorney General Opioid Settlements

---

HF 4265 (Olson)

*Informational Hearing*

Behavior Health Policy Division

March 30, 2022

# Distributors + J&J Settlement

## Terms and Structure

---

- Distributors / Johnson & Johnson settlements
  - Minnesota joined these settlements last summer
  - Cities and counties joined by January 2022
  - \$26 billion in total available settlement amount (assuming 100% national participation)
    - Distributors: \$21 billion over 18 years
    - Johnson & Johnson: \$5 billion over 10 years
- Minnesota's allocation is 1.297%
- Maximum payment for Minnesota: \$300 million+
  - Paid over 18 years
  - Designated for opioid abatement
- Funds distributed within each state according to state law or intrastate (“State-Local”) agreement
  - Default structure is 85% to state and 15% to local governments, but we reached an agreement with cities and counties to vary this allocation model

# Distributors / J&J Incentive Structure and “Global Peace”

---

- States and subdivisions get more money if they deliver more peace (releases of liability)
- “Global Peace” means resolution of both:
  - Existing claims (*i.e.*, claims by litigating subdivisions)
  - Potential future claims (*i.e.*, claims by currently non-litigating subdivisions)
- Pathways to Peace
  - Contractual (*i.e.*, cities and counties sign on)
  - Legislative (*i.e.*, statutory claims bar)

# How To Achieve These Goals

---

- Best way to maximize funds and make sure they go where they are needed was to work with all relevant parties in coming up with a plan, including:
  - League of Minnesota Cities
  - Coalition of Greater Minnesota Cities
  - Association of Minnesota Counties
  - Opioid Epidemic Response Advisory Council members
  - State agencies
  - Tribal representatives
  - Public health experts
  - Community providers
  - First responders
- Convened two separate workgroups: one with public health experts (expert advisory panel) and the other with local government officials (signers' table)

# The Result: Minnesota State-Subdivision Memorandum of Agreement

---

- Allocation
  - Local Governments get 75% of funds directly
    - All 87 counties
    - Cities over 30,000, litigating cities, cities with public health departments
  - State fund is 25%
    - All spent on opioid abatement (prevention, treatment, etc.) overseen by the Opioid Epidemic Response Advisory Council
  - \*75/25 split requires state law change
- Use of funds
  - Expert panel selected comprehensive list of future opioid abatement and remediation programs

# Minnesota Local Government Participation

---

- The State-Local Agreement was finished in mid-December 2021, and counties and cities had until Jan. 26, 2022 to join
- As a result of this comprehensive process, Minnesota achieved broad sign-on to the MOA and the national settlements from our local governments
  - All 87 counties
  - All cities over 10,000
  - Nearly 50 cities under 10,000

# Statutory Change from State-Local Agreement

---

- Linchpin of MN MOA is that AGO and local governments work together to ensure settlement funds flow directly to local governments (“legislative modification”)
  - This “legislative modification” requires that opioid settlement funds are no longer directly appropriated to counties through state opioid fund
  - If “legislative modification” is not achieved by 8/1/22, allocation is modified to 60% local governments, 40% state, and the state share is effectively reduced to 20%

# Landmark Legislation: HF 400 (2019)

---

- In May 2019, the Minnesota Legislature passed an omnibus opioids bill (HF 400) that:
  - Required opioid manufacturers and distributors to pay increased opioid-related fees
  - Created special opioid fund for state litigation recoveries and state opioid fees
  - Created opioid advisory council to make grant recommendations

# The Final Step: HF 4265

---

- House File 4265 is a necessary step to implement the State-Local Agreement by updating the HF 400 framework
- Three main items
  1. Releases settlement funds
  2. Amends statute to implement the 75/25 local-state allocation split
  3. Enacts a claims bar to maximize the amount of resources

# HF 4265 Item 1: Unlock Opioid Settlement Funds

---

- **Issue:** Current law provides that opioid settlement funds recovered by the AGO “must be deposited in a separate account in the state treasury,” and are only transferred into the opiate epidemic response fund once the opioid-related Pharmacy Board fees are sunset. Minn. Stat. § 16A.151, subd. 2(f).
  - The opioid-related fees will sunset when the state “receives a total sum of \$250,000,000” from opioid-related cases, but cannot be repealed/reduced prior to July 1, 2024. Minn. Stat. § 256.043, subd. 4 (a), (c).
- **HF 4265 Solution:** Amends Minn. Stat. § 16A.151, subd. 2(g) to allow payments from these settlements to be transferred from the lockbox immediately into the opioid fund.

# HF 4265 Item 2: Implement 75/25 Allocation

---

- **Issue:** Current law provides that 50% of the opioid fund (after initial appropriations) is distributed to county and tribal social service agencies for child protection services for families affected by addiction
  - A key term of the intrastate agreement is that this distribution be modified with regard to settlement funds
- **HF 4265 Solution:** Create new opioid settlement account in the Opiate Epidemic Response Fund that removes the 50% county share, allowing local governments to receive their settlement payments directly and ensuring that the vast majority of state settlement funds go directly to OERAC

# HF 4265 Item 3: Claims Bar

---

- **Issue:** To get full payments, the distributor and J&J agreements require “global peace” – the resolution of ongoing lawsuits and the prevention of future lawsuits against the four companies.
- **HF 4265 Solution:** The claims bar complements the broad sign-on the AGO has obtained, and ensures that Minnesota receives maximum payments, eliminating the risk of reduced/delayed payments from a future lawsuit.
  - Narrow scope

# What Happens if Legislation Does Not Pass?

---

- Carefully negotiated MN MOA cannot be fully implemented
- Receipt of payments is delayed
- Settlement funds are inaccessible until 2024 (at the earliest)
- Minnesota loses out on millions of dollars in settlement funds
- Decrease in funding to OERAC
- Counties lose the benefit of direct payments
- Cities suffer a disproportionate decrease to their share of settlement payments

# Questions?

---

- Minnesota Attorney General
  - Website: [www.ag.state.mn.us/opioids](http://www.ag.state.mn.us/opioids)
    - Includes national settlement documents, full state-local agreement, FAQs, summaries, etc.
  - Email: [opioids@ag.state.mn.us](mailto:opioids@ag.state.mn.us)
  - Telephone: (612) 429-7126
- [www.nationalopioidsettlement.com](http://www.nationalopioidsettlement.com)