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Global Opioids Settlement

What it means for Texas

This presentation is for informational purposes and does not constitute legal advice.

Opioids Crisis Update

- In 2020, drug overdose deaths **rose nearly 30%** in the United States to a **record high** of 93,000.
- Opioid overdose deaths hit a **record 69,000** in the United States.
- In Texas, **drug overdose deaths also increased by 31.9%**, driven primarily by opioid overdose deaths.
- The opioid overdose death increase was driven by fentanyl and other synthetic opioids.
- Attorney General Paxton's [website](#) has information to protect Texans from the nation's opioid crisis by educating them about the dangers of misusing prescription opioids.

Sources:

"Provisional Drug Overdose Death Counts." Centers for Disease Control: National Center for Health Statistics (last accessed July 23, 2021),

<https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm>

"U.S. Drug-Overdose Deaths Soared Nearly 30% in 2020, Driven by Synthetic Opioids." Betsy McKay, Wall Street Journal (July 14, 2021),

<https://www.wsj.com/articles/u-s-drug-overdose-deaths-soared-nearly-30-in-2020-11626271200>

Opioid Lawsuits Timeline (1 of 3)

- In **September 2017**, Attorney General Paxton and a **bipartisan coalition of 40 other states** served investigative subpoenas and additional requests on eight companies that manufacture or distribute highly addictive opioids to evaluate whether manufacturers and distributors engaged in unlawful practices in the marketing, sale, and distribution of opioids.
- **May 15, 2018**, Texas filed a **lawsuit against Purdue Pharma** for violating state laws against deceptive trade practices and misrepresenting the risk of addiction to patients and doctors.
- On **September 4, 2019**, Attorney General Paxton announced that a **civil Medicaid fraud lawsuit** had been filed against pharmaceutical manufacturer **Johnson & Johnson** for misrepresentations made to the Texas Medicaid program about their dangerous opioid drug, Duragesic.
- Purdue Pharma files for Chapter 11 Bankruptcy in **September 2019**.

Opioid Lawsuits Timeline (2 of 3)

- In **February 2020**, Attorney General Paxton announced a global settlement framework between state attorneys general, local subdivisions, and Mallinckrodt (MKN). MKN is currently the largest generic opioid manufacturer in the United States. In the agreement, MKN agreed to pay **\$1.6 billion in cash** to a trust that will cover the costs of opioid addiction treatment and related efforts, with the potential for increased payment to the trust.
- On **May 13, 2020**, Attorney General Paxton reached a bipartisan agreement with Texas Counties and Cities in preparation for settlement with opioid defendants: **McKesson, Cardinal Health, ABDC, and Johnson & Johnson**. Texas is one of the lead states currently negotiating financial settlements with the nation's largest companies in the opioid supply chain.

Opioid Lawsuits Timeline (3 of 3)

- In **February 2021**, Attorney General Paxton and 46 states entered into a settlement with McKinsey, a consulting firm that assisted Purdue and others with their marketing of prescription opioids, for **\$583 million and injunctive relief**. The funds are earmarked to remediate the harms caused by the opioid epidemic and to recover the costs incurred in investigating and pursuing these claims.
- On **July 23, 2021**, Attorney General Paxton announced the global settlement had been reached with opioid defendants **McKesson, Cardinal Health, ABDC, and Johnson & Johnson**.

Opioids Settlements

- On **July 23, 2021**, Attorney General Paxton announced global settlements had been reached with the three major opioid distributors **McKesson, Cardinal Health, and Amerisource Bergen (ABDC)**, and opioid manufacturer **Johnson & Johnson (J&J)**.
 - Both settlements are a combined historic **\$26 billion**.
 - The distributors' settlement is for **\$21 billion**.
 - J&J's settlement is for **\$5 billion**.
 - The settlements include injunctive relief that changes the industry.

Opioids Settlements

- Texas could receive as much as **\$1.17 billion from the distributors** and **\$268 million from J&J** for **almost \$1.5 billion**, most of which is targeted for opioid abatement.
 - The actual amount states receive will depend upon the participation of cities, counties, and other political subdivisions in the state.
 - The companies have agreed there is sufficient state support to move forward with subdivision notice and sign on.

Goal: Bring the Most Money to States

- There are a combination of approaches that states can use to maximize funds with the participation of litigating subdivisions and nonlitigating subdivisions.
- This can be obtained by getting releases for past and future claims from all litigating subdivisions and special districts, all general-purpose subdivisions over 10,000 population, and covered special districts.
- Texas has 128 litigating subdivisions:
 - 110 Counties.
 - 5 Cities.
 - 10 Hospital Districts.
 - 3 School Districts.
- Texas has 406 general purpose subdivisions with a population of over 10,000 (309 nonlitigating and 97 litigating).

How Settlement Dollars Flow into Texas

- Question: If a subdivision signs up and executes a release, how do I get dollars to my county?
- Answer in Texas: SB 1827 (87R) and the Texas Term Sheet
- Other states:
 - Depends on state law / state-subdivision agreements
 - Default mechanism

Texas Term Sheet and SB 1827

- Goal of the Texas Term Sheet: Provide Texans in **all 254 counties** with the opportunity for funding for education, prevention, and treatment of opioid abuse.
 - Divided money 15% state, 15% subdivision, 70% joint for abatement.
 - Provided for an intrastate allocation.
 - Capped attorneys' fees.
- SB 1827 (87R) codifies the Texas Term Sheet and establishes the **Texas Opioid Council (Council)** to ensure that the funds recovered by Texas are allocated fairly and spent to remediate the opioid crisis in Texas, using efficient and cost-effective methods that are directed to the hardest hit regions in Texas while also ensuring that all Texans benefit from prevention and recovery efforts.
- 85% of the funds under the Settlement will be deposited into the Opioids Abatement Trust Fund:
 - 15% to directly to subdivisions.
 - 70% share to abatement programs.

Example Opioid Fund Allocations

These amounts are estimates only based on maximum recoveries

- Example 1 – direct payments to cities and counties:

Subdivision	Distributors	J&J	Total
City of Austin	\$4,841,120.89	\$1,112,725.20	\$5,953,846.09
Bell County	\$645,865.76	\$148,451.39	\$794,317.14
City of Belton	\$72,134.72	\$16,580.07	\$88,714.79
City of Elgin	\$26,086.80	\$5,996.02	\$32,082.82
City of Georgetown	\$224,201.21	\$51,532.35	\$275,733.56
City of Harker Heights	\$112,828.11	\$25,933.39	\$138,761.50
City of Hutto	\$38,058.31	\$8,747.65	\$46,805.96
City of Killeen	\$531,631.28	\$122,194.74	\$653,826.02
City of Leander	\$87,975.97	\$20,221.16	\$108,197.13
City of Pflugerville	\$85,759.72	\$19,711.76	\$105,471.48
City of Round Rock	\$472,420.87	\$108,585.31	\$581,006.17
City of Taylor	\$57,510.27	\$13,218.66	\$70,728.93
City of Temple	\$278,640.69	\$64,045.19	11 \$342,685.89

- Assuming (1) your subdivision executes a release and signs on to the Texas Term Sheet, and (2) Texas receives maximum funds from the distributors and J&J, what kind of funding does that mean for my subdivision?

Example Opioid Fund Allocations

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- Assuming (1) your subdivision executes a release and signs on to the Texas Term Sheet, and (2) Texas receives maximum funds from the distributors and J&J, what kind of funding does that mean for my subdivision?

- Example 2 – Abatement allocations by Regions for Treatment Programs

Region	Distributors	J&J	Total
Region 7 (Bastrop, Caldwell, Fayette, Hays, Lee, Travis)	\$50,617,062.23	\$11,634,264	\$62,251,326.70
Region 8 (Bell, Blanco, Burnet, Lampasas, Llano, Milam, Mills, San Saba, Williamson)	\$24,281,622.53	\$5,581,099	\$29,862,721.20

Next Steps

- To join the Settlement, Subdivisions need to:
 - Sign on the to settlement and execute releases; and
 - Execute the Texas Term Sheet.
- The deadline to sign on is approximately 120 days after the state sign-on period, estimated January 2, 2022.



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For more information, visit

www.texasattorneygeneral.gov/globalopioidsettlement

Questions? Email opioids@oag.texas.gov