

1 AN ACT relating to the Kentucky Opioid Abatement Advisory Commission,
2 making an appropriation therefor, and declaring an emergency.

3 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

4 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO
5 READ AS FOLLOWS:

6 *(1) There is hereby established the Kentucky Opioid Abatement Advisory*
7 *Commission. The commission shall be attached to the Department of Law for*
8 *administrative purposes.*

9 *(2) The commission shall consist of the following members:*

10 *(a) The Attorney General or his or her designee, who shall act as chair;*

11 *(b) The State Treasurer or his or her designee;*

12 *(c) The Secretary of the Cabinet for Health and Family Services or his or her*
13 *designee;*

14 *(d) One (1) member appointed by the Speaker of the House of Representatives;*

15 *(e) One (1) member appointed by the President of the Senate;*

16 *(f) One (1) member appointed by the Kentucky Association of Counties;*

17 *(g) One (1) member appointed by the Kentucky League of Cities;*

18 *(h) One (1) member appointed by the University of Kentucky from the*
19 *HEALing Communities Study Team;*

20 *(i) One (1) member appointed by the Attorney General representing victims of*
21 *the opioid crisis;*

22 *(j) One (1) member appointed by the Attorney General representing the drug*
23 *treatment and prevention community; and*

24 *(k) One (1) member appointed by the Attorney General representing law*
25 *enforcement.*

26 *(3) (a) Members of the commission appointed under subsection (2)(a) to (c) of this*
27 *section shall serve terms concurrent with holding their respective offices or*

1 positions.

2 (b) The remaining members of the commission shall serve staggered two (2)
3 year terms as follows:

4 1. Members of the commission appointed under subsection (2)(d) to (g)
5 of this section shall serve an initial term of two (2) years;

6 2. Members of the commission appointed under subsection (2)(h) to (k)
7 of this section shall serve an initial term of one (1) year; and

8 3. Members of the commission appointed under subsection (2)(d) to (k)
9 of this section may be reappointed to serve successive terms.

10 (c) Members of the commission shall not receive compensation for their
11 services but be reimbursed for necessary travel and lodging expenses
12 incurred in the performance of their duties.

13 (4) (a) Meetings of the commission shall be conducted according to KRS 61.800 to
14 KRS 61.850.

15 (b) The commission shall meet at least twice within each calendar year.

16 (c) Six (6) members of the commission shall constitute a quorum for the
17 transaction of business.

18 (d) Each member of the commission shall have one (1) vote, with all actions
19 being taken by an affirmative vote of the majority of members present.

20 (5) The commission shall award moneys from the opioid abatement trust fund
21 established in Section 2 of this Act to reimburse prior expenses or to fund projects
22 according to the following criteria related to opioid use disorder (OUD) or any
23 co-occurring substance use disorder or mental health (SUD/MH) issues:

24 (a) Reimbursement of the Commonwealth or any political subdivision thereof
25 for:

26 1. Any portion of the cost related to outpatient and residential treatment
27 services, including:

- 1 a. Services provided to incarcerated individuals;
- 2 b. Medication assisted treatment;
- 3 c. Abstinence-based treatment; and
- 4 d. Treatment, recovery, or other services provided by community
- 5 health centers or not-for-profit providers;
- 6 2. Emergency response services provided by law enforcement or first
- 7 responders; or
- 8 3. Any portion of the cost of administering naloxone; or
- 9 (b) Provide funding for any project which:
- 10 1. Supports mobile intervention, treatment, and recovery services
- 11 provided to persons:
- 12 a. With OUD or co-occurring SUD/MH issues; or
- 13 b. Who have experienced an opioid overdose;
- 14 2. Supports detoxification services, including:
- 15 a. Medical detoxification;
- 16 b. Referral to treatment; or
- 17 c. Connections to other services;
- 18 3. Provides access to opioid abatement related housing, including:
- 19 a. Supportive housing;
- 20 b. Recovery housing; or
- 21 c. Other opioid abatement related housing assistance programs;
- 22 4. Provides or supports transportation to treatment or recovery programs
- 23 or services;
- 24 5. Provides employment training or educational services for persons in
- 25 treatment or recovery;
- 26 6. Creates or supports centralized call centers that provide information
- 27 and connections to appropriate services;

- 1 7. Improves oversight of opioid treatment programs to ensure evidence-
2 based and evidence-informed practices;
- 3 8. Provides scholarships and supports for certified addiction counselors
4 and other mental and behavioral health providers, including:
- 5 a. Training scholarship;
6 b. Fellowships;
7 c. Loan repayment programs; or
8 d. Other incentives for providers to work in rural or underserved
9 areas of the Commonwealth;
- 10 9. Supports efforts to prevent over-prescribing and ensures appropriate
11 prescribing and dispensing of opioids through evidence-based and
12 evidence-informed program or strategies;
- 13 10. Supports enhancements or improvements consistent with state law for
14 prescription drug monitoring programs;
- 15 11. Supports the education of law enforcement or other first responders
16 regarding appropriate practices and precautions when dealing with
17 fentanyl or other drugs; or
- 18 12. Any other project deemed appropriate for opioid abatement purposes
19 by the commission.
- 20 (6) The commission may identify additional duties or responsibilities, including:
- 21 (a) Reporting on projects and programs related to addressing the opioid
22 epidemic;
- 23 (b) Developing priorities, goals, and recommendations for spending on the
24 projects and programs;
- 25 (c) Working with state agencies or outside entities to develop measures for
26 projects and programs that address substance use disorders; or
- 27 (d) Making recommendations for policy changes on a state or local level,

1 including statutory law and administrative regulations.

2 (7) The commission shall:

3 (a) Create and maintain a Web site on which it shall publish its minutes,
 4 attendance rolls, and votes, including records of all votes on funding
 5 requests, funding awards, and reports of funding by recipients; and

6 (b) Promulgate administrative regulations to implement this section, including:

7 1. Funding qualifications;

8 2. Application procedures;

9 3. Timelines for receiving, reviewing, and acting upon application
 10 requests; and

11 4. The format that is required for the reports required under subsection
 12 (8) of this section.

13 (8) Each county, city, consolidated local government, urban county government,
 14 political subdivision of the Commonwealth, or program that receives moneys
 15 under this section shall annually provide to the commission a detailed account of
 16 all moneys spent on approved uses, including an analysis and evaluation of the
 17 projects and programs it has funded.

18 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO
 19 READ AS FOLLOWS:

20 (1) (a) There is hereby established in the State Treasury a trust and agency
 21 account to be known as the opioid abatement trust fund.

22 (b) The fund shall consist of:

23 1. All proceeds received by the Commonwealth from all consumer
 24 protection settlements or judgments against opioid manufacturers or
 25 distributors in Commonwealth v. McKesson Corporation, Franklin
 26 Circuit Court, 18-CI-00056; Commonwealth v. Cardinal Health 5,
 27 LLC, et al., Jefferson Circuit Court, 18-CI-001013; Commonwealth v.

1 *Amerisourcebergen Drug Corporation, et al, Floyd Circuit Court, 18-*
2 *CI-00167 and Commonwealth v. Johnson & Johnson, et al.,*
3 *McCracken Circuit Court, 18-CI-00313;*

4 *2. All other opioid-related settlement funds or judgments from Kentucky*
5 *counties and all political subdivisions resulting from lawsuits against*
6 *opioid manufacturers, distributors, and other persons identified as*
7 *defendants in the litigation referenced in subparagraph 1. of this*
8 *paragraph; and*

9 *3. Any other moneys received from state appropriations, gifts, grants, or*
10 *federal funds.*

11 *(c) The fund shall be administered by the Office of the Attorney General.*

12 *(d) Amounts deposited in the fund shall be used for reimbursement of costs or*
13 *providing moneys to projects as described in Section 1 of this Act.*

14 *(e) Notwithstanding KRS 45.229, moneys in the fund not expended at the close*
15 *of a fiscal year shall not lapse but shall be carried forward into the next*
16 *fiscal year.*

17 *(f) Any interest earnings of the fund shall become a part of the fund and shall*
18 *not lapse.*

19 *(g) Moneys deposited in the fund are hereby appropriated for the purposes set*
20 *forth in Section 1 of this Act, distributed as described in subsection (2) of*
21 *this section, and shall not be appropriated or transferred by the General*
22 *Assembly for any other purposes.*

23 *(2) (a) Moneys in the fund shall be distributed as follows:*

24 *1. Fifteen percent (15%) of all the moneys received in the opioid*
25 *abatement trust fund shall be distributed to counties, cities,*
26 *consolidated local governments, and urban county governments;*

27 *a. This distribution shall occur no less than annually.*

- 1 **b. The distribution shall be based on the 2010 census population of**
2 **each qualifying county and political subdivision, except that the**
3 **population of any political subdivision which receives funds**
4 **under this paragraph shall not be included in the population of**
5 **the county for determining the distribution to that county;**
- 6 **2. Fifteen percent (15%) of all the moneys received shall be for the**
7 **exclusive use of the Commonwealth under subsection (5) of Section 1**
8 **of this Act;**
- 9 **a. The Office of Attorney General may first recover its reasonable**
10 **costs of litigation under KRS 48.005(4) from the moneys received**
11 **under subparagraph 1. of this paragraph.**
- 12 **b. The distributions required in subparagraphs 1. and 2. of this**
13 **paragraph shall occur no less than annually; and**
- 14 **3. After the distributions required under subparagraphs 1. and 2. of this**
15 **paragraph are made, all remaining moneys shall be deposited into the**
16 **opioid abatement trust fund to be distributed by the Kentucky Opioid**
17 **Abatement Advisory Commission.**
- 18 **(b) 1. The Office of the Attorney General may recover any direct costs,**
19 **including employee time used to perform or administer the duties**
20 **required by Section 1 of this Act.**
- 21 **2. The Office of the Attorney General shall report all such recovered**
22 **costs to the Kentucky Opioid Abatement Advisory Commission no less**
23 **than annually.**
- 24 **(3) To the extent that settlement has been reached in any of the litigation referenced**
25 **in subsection (1)(b)1. of this section, each county, city, consolidated local**
26 **government, urban county government, or political subdivision of the**
27 **Commonwealth that receives moneys under this section shall be deemed to have**

1 released its claims against any and all settling defendants subject to the litigation
2 referenced in subsection (1)(b)1. of this section related to the claims and time
3 periods covered by the referenced litigation and contained in any settlement
4 agreements between the Commonwealth, any of its political subdivisions, and the
5 defendants.

6 (4) To the extent that a settlement has been reached in any of the litigation
7 referenced in subsection (1)(b)1. of this section, any county, city, consolidated
8 local government, urban county government, or political subdivision of the
9 Commonwealth that fails to affirmatively waive its claims against any and all
10 settling defendants subject to the litigation referenced in subsection (1)(b)1. of
11 this section shall be barred from receiving moneys from the commission.

12 (5) The Kentucky Opioid Abatement Advisory Commission shall continue to make
13 distributions from the fund as long as defendants in the opioid litigation make
14 payments to the Commonwealth or until the time that the moneys in the fund are
15 exhausted.

16 ➔Section 3. Whereas there are many people in the Commonwealth who are
17 addicts and might be contemplating the taking their life, an emergency is declared to
18 exist, and this Act takes effect upon its passage and approval by the Governor or upon its
19 otherwise becoming a law.