

Update on the Opioid Abatement Authority and Opioid Settlement Funds

Presented to the Virginia Addiction Recovery Council

April 20, 2023

Opioid Litigation Involving States & Subdivisions

In late 2017 a federal judicial panel consolidated all Federal opioid related litigation into single multi-district litigation (MDL).



Judge Dan Aaron Polster



Carl B. Stokes United States Court House
Cleveland, Ohio

“the biggest and most complicated civil case in U.S. history . . . ”
- Washington Post

The First National Settlement Agreements Paid to Cities and Counties in Virginia

The “Distributors”

MCKESSON



CardinalHealth™



AmerisourceBergen®

Johnson and Johnson (Janssen Pharmaceuticals)



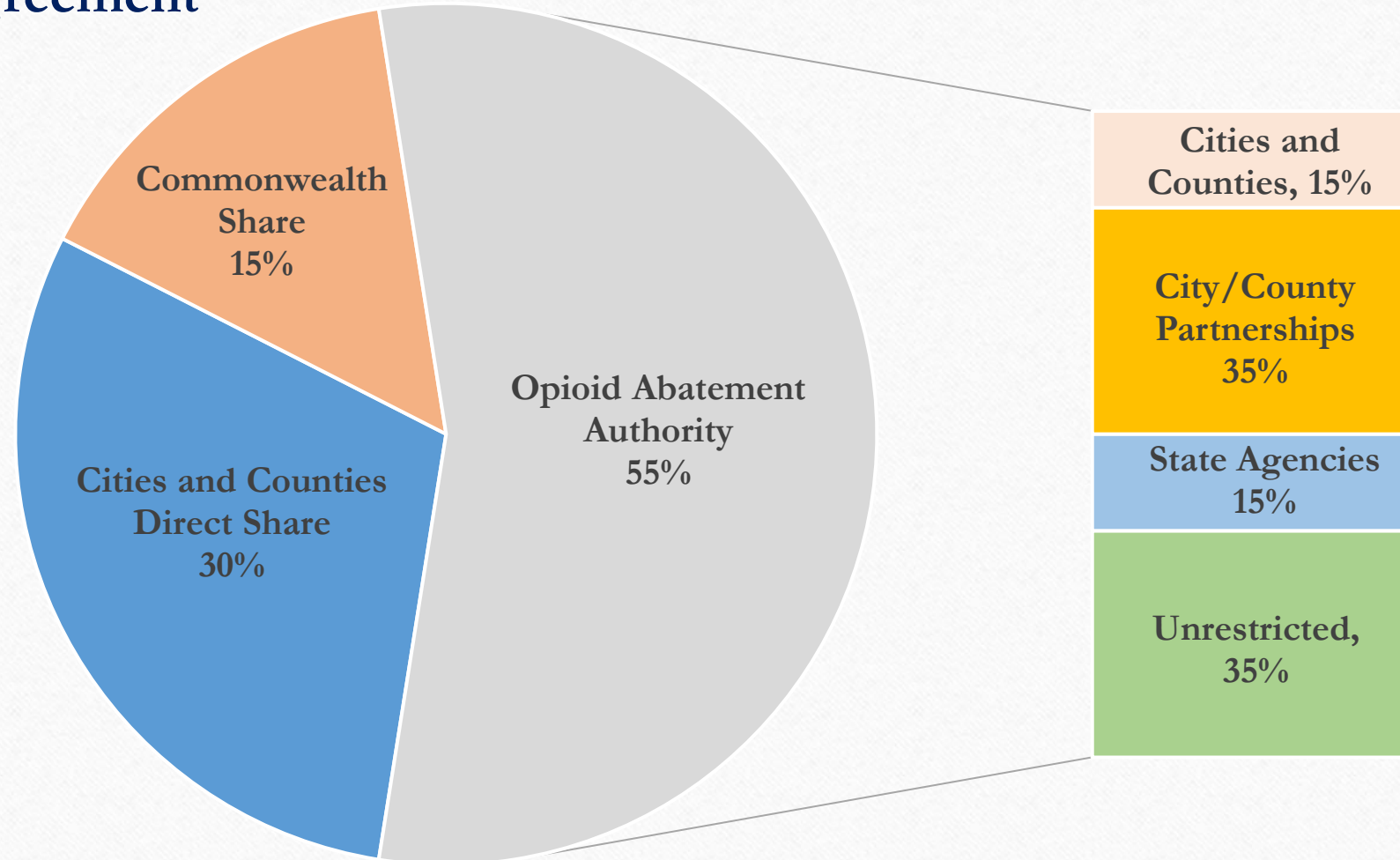
Virginia's Participation in National Settlements

- In late 2021-early 2022, the Virginia Attorney General's office worked with local attorneys and outside counsel representing localities, and with numerous associations, to encourage cities and counties to participate and drop individual suits.
 - ✓ Resulted in a signed **Virginia Allocation MOU** between all 133 cities/counties and the Commonwealth.
 - ✓ General Assembly passed a statute that closely mirrors the MOU.
 - ✓ The MOU and the statute specify that only cities, counties, and state agencies are eligible to receive financial support from the OAA.

OAA Board of Directors

- Senator Todd Pillion (Chair)
- Dr. Sarah Melton (Vice Chair)
- Tim Spencer – Roanoke City Attorney (Secretary)
- Jim Holland (Treasurer)
- HHR Secretary John Littel
- Delegate Jason Ballard
- Dr. James Thompson – Master Center
- Sharon Buckman – Piedmont CSB
- Daryl Washington – Fairfax CSB
- Sheriff Joe Baron – Norfolk City
- Mike Tillem – Journey House

Virginia's Settlement Distribution Agreement



**OAA Disbursements
to Cities, Counties,
and State Agencies.**

Minimum Percentages

**Cities and
Counties, 15%**

**City/County
Partnerships
35%**

**State Agencies
15%**

**Unrestricted,
35%**

The Statutory Requirements on the use of OAA Funds Exceed the Requirements of the National Settlement Agreements

- 100% of the OAA's disbursements to cities, counties and state agencies *must be* spent on abatement efforts.
- There is no reimbursement of previous costs or supplanting allowed.
- No indirect charges allowed.
- Recipients must report outcomes to OAA on an annual basis and allow OAA to monitor the programs.

More Background . . . What exactly is “ABATEMENT”

- Before we talk about how the funds are distributed, we first need to talk about what “abatement” means.
 - ✓ This term appears throughout the national settlement agreements
 - ✓ Also is key provision of the Virginia Allocation MOU and the State Code
 - ✓ Has specific legal meaning, and yet is broad in its applicability
- An understanding of what is – and is not – “abatement” is important.
- Part of the OAA Board’s responsibility is to determine what qualifies as abatement when making decisions about financial support.

What is “Abatement”

Efforts designed to treat, prevent, or reduce opioid use disorder or the misuse of opioids or otherwise abate or remediate the opioid epidemic, which may include efforts to:

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- Support treatment of opioid use disorder and any co-occurring substance use disorder or mental health conditions through evidence-based or evidence-informed methods, programs, or strategies;
 - Support people in recovery from opioid use disorder and any co-occurring substance use disorder or mental health conditions through evidence-based or evidence-informed methods, programs, or strategies;
 - Provide connections to care for people who have, or are at risk of developing, opioid use disorder and any co-occurring substance use disorder or mental health conditions through evidence-based or evidence-informed methods, programs, or strategies;

“Abatement” cont’d . . .

- Support efforts, including law-enforcement programs, to address the needs of persons with opioid use disorder and any co-occurring substance use disorder or mental health conditions who are involved in, or are at risk of becoming involved in, the criminal justice system through evidence-based or evidence-informed methods, programs, or strategies;
- Support drug treatment and recovery courts that provide evidence-based or evidence-informed options for people with opioid use disorder and any co-occurring substance use disorder or mental health conditions;
- Support efforts to address the needs of pregnant or parenting women with opioid use disorder and any co-occurring substance use disorder or mental health conditions and the needs of their families, including infants with neonatal abstinence syndrome, through evidence-based or evidence-informed methods, programs, or strategies;

“Abatement” cont’d . . .

- Support efforts to discourage or prevent misuse of opioids through evidence-based or evidence-informed methods, programs, or strategies;
- Support efforts to prevent or reduce overdose deaths or other opioid-related harms through evidence-based or evidence-informed methods, programs, or strategies; and
- Support efforts to provide comprehensive resources for patients seeking opioid detoxification, including detoxification services.

Examples of efforts that are likely to qualify as “abatement.”

- Prevention programs including within schools
- Detox services that include opioid-related detoxification
- Naloxone training and distribution
- Treatment services including medication-assisted treatment
- Programs to divert people from jail to treatment, including drug courts
- Recovery housing, linkages to transportation, job training, employment
- Behavioral health crisis programs if there is a clear connection to serving people with opioid use disorders as a central component of the program.

How will the use of funds be tracked

- In accordance with *Code of Virginia § 2.2-2370* all expenditures of OAA funds shall be conducted or managed by a participating locality or state agency.
- Every city and county is required by law to conduct an outside audit and report its expenditures to the state (*Code of Virginia § 15.2-2511*).
- Expenditures must also be reported to the OAA
- Performance measures must be reported to the OAA
- OAA will be performing site visits and inspections
- Any concerns can result in detailed financial and programmatic reviews.

Grant-Making Status

- Application period for cities and counties opened January 19 – closes May 5
 - Awards will be made on June 9 (tentative date)
 - *Going forward the application timeframe will run Oct 1 to April 1 each year*
- RFP for state agencies will open April 21 – closes June 21
 - MOUs will be executed late September

Settlement Negotiations in the Pipeline





For more information

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