



COUNTY OF HUMBOLDT

For the meeting of: 11/9/2021

File #: 21-1664

To: Board of Supervisors

From: County Administrative Office

Agenda Section: Consent

SUBJECT:
Approval of Opioid Litigation Settlement

RECOMMENDATION(S):

That the Board of Supervisors:

1. Approve a settlement agreement in the opioid litigation with Johnson & Johnson, AmerisourceBergen, Cardinal Health, and McKesson and
2. Authorize the Chair or Vice Chair to sign the final settlement documents for the named defendants.

SOURCE OF FUNDING:

General Fund

DISCUSSION:

A settlement agreement has been reached between representatives of political subdivisions across the county and Johnson & Johnson and the “Big Three” drug distributors (AmerisourceBergen, Cardinal Health, and McKesson) regarding the litigation filed because of the national opioid epidemic. Pursuant to your Board’s direction, the County of Humboldt joined the nationwide litigation in 2018 and is represented by the firm of Keller Rohrbach.

The settlement agreements with the above-listed companies were reached in July 2021. The statewide distributions have been the subject of long-term negotiations between litigating public entities in California and the Attorney General’s Office over allocation details. Under the terms of the Settlement, the “Big Three” distributors will pay a maximum of \$21 billion over 18 years, while J&J will pay a maximum of \$5 billion over no more than nine years, with approximately \$22.8 billion in settlement proceeds payable to state and local subdivisions. In addition to the monetary proceeds, the agreement also provides for injunctive relief that requires changes to the distributors’ and J&J’s conduct. This reform package includes the creation of a clearinghouse through which the distributors will be required to account not only for their own shipments, but also the shipments of the other distributors, to detect, stop, and report suspicious Opioids orders. In addition, J&J will not market or sell any Opioid products in the next ten years and has agreed to cease lobbying concerning prescription opioids for ten

years. J&J also has agreed to make the clinical trial data for its discontinued Opioids available for medical research.

According to allocation formulas negotiated as part of the settlement, California stands to receive approximately 10% of the settlement proceeds, of which (i) approximately 15% of the proceeds will go to the litigating cities and counties as reimbursement of litigation expenses; (ii) approximately 15% of the proceeds will go to the state; and (iii) approximately 70% will be distributed to counties and cities with a population over 10,000 for opioid abatement. A portion of the abatement funds are designated for certain high impact activities which include substance use disorder facilities (SUD) and infrastructure, addressing vulnerable populations, justice diversion and intervention with vulnerable youth.

According to preliminary estimates, The County of Humboldt stands to receive more than \$18 million over the settlement period. The funds will be paid over an 18-year period, with a substantial portion of the funds frontloaded. The funds are expected to be released in or about July 2022. The funds will be available for a broad range of approved abatement uses. The list of pre-approved uses includes a wide range of intervention, treatment, education, and recovery services. This is a preliminary estimate as the amount of funds received is dependent upon the level of settlement participation by various cities and counties within the state.

Locally, the City of Eureka is also an active participant in the litigation (also represented by Keller Rohrbach) and the cities over the threshold of 10,000 residents, Arcata and Fortuna, are also expected to “opt in” to the settlement.

Approval of this item will allow the Chair or Vice Chair to submit the settlement documents for this portion of the settlement of the opioid litigation. Other opioid litigation remains pending with other manufacturers and distributors that, once resolved, could increase the amount the county will receive in the future for opioid abatement.

FINANCIAL IMPACT:

Assuming the settlement agreements are put into effect, staff estimates the county will receive more than \$18 million over an 18-year period, with a larger portion of the funds payable during the initial nine years. The actual disbursement schedule is not yet available. The county will incur staff time to fulfill its annual reporting obligations to demonstrate use for approved opioid abatement activities.

STRATEGIC FRAMEWORK:

This action supports your Board’s Strategic Framework by creating opportunities for improved safety and health and protecting vulnerable populations.

OTHER AGENCY INVOLVEMENT:

DHHS, HCSO, Probation

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ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board could choose not to approve the settlement; however, this is not recommended as the allocation agreements have been the subject of extensive statewide negotiations resulting in favorable terms to local entities.

ATTACHMENTS:

None

PREVIOUS ACTION/REFERRAL:

Board Order No.: N/A

Meeting of: N/A

File No.: N/A