



Buncombe County Board of Commissioners

Request for Board Action

Meeting Date: 12/7/2021

Old Business

Department(s): County Legal Department
County Managers Office

Presenter(s): Michael Frue

Contact(s): Michael Frue; Brandon Freeman

Subject: Resolution Approving the Memorandum of Agreement (MOA) between the State of North Carolina and Local Governments on Proceeds Relating to the Settlement of Opioid Litigation

Brief Summary:

After years of negotiations, two proposed nationwide settlement agreements have been reached that would resolve all opioid litigation brought by state and local governments against the three largest drug distributors, McKesson, Cardinal Health and AmerisourceBergen (“distributors”), and one manufacturer, Janssen Pharmaceuticals, Inc., and its parent company Johnson & Johnson (“J&J”). The proposed settlements require that the distributors and J&J pay \$26 billion over 18 years, with approximately \$22.7 billion available to state and local governments to address the opioid epidemic.

The State of North Carolina has already approved and signed the settlements, making North Carolina local governments eligible to participate. The next step in this process is for local governments to sign on to the settlements by January 2, 2022.

On June 1, 2021, this Board adopted a resolution approving a [Memorandum of Agreement](#) with the state of North Carolina outlining how the County and state would divide and spend any settlement funds resulting from opioid litigation. That Resolution authorized, among other things, the County Manager to “execute any documents related to the allocation of opioid settlement funds and settlement of lawsuits” related to the matter, however, it was also conditioned on certain attorneys’ participation in the National opioid litigation subdivision and common benefit attorney’s fee fund. Although it appears that said attorneys will so participate, the legal department recommends, out of an abundance of caution, that this Board readopt the resolution and omit the conditional language to give the County Manager the express authority to execute any documents related to the allocation of opioid settlement funds and settlement of lawsuits.

Adopting this resolution would give the County Manager the express authority to execute any documents related to the allocation of opioid settlement funds, the documents related

to the settlement outlined above, and any future settlements resulting from the County's lawsuit against multiple defendants involved in the manufacture, sale, and/or distribution of Opioids.

Recommended Motion & Requested Action: Move that the Resolution be adopted.

County Manager's comments and Recommendation: Recommends approval.