

ARC Issue Brief: Opioid-related litigation funds must be directed to treatment, harm reduction

The American Medical Association strongly urges that any opioid litigation monies paid to states, cities, counties and other jurisdictions be used exclusively for research, education, prevention, and treatment of overdose, substance use disorders, care for patients with pain, and increasing access to harm reduction services.¹ The American Bar Association makes similar recommendations.² There is increased urgency for clear policy and direction given that states, cities, counties and tribal areas are starting to receive millions of dollars.³

Fewer than 20 states have enacted laws or put specific policies into effect that will help ensure opioid-related litigation funds are targeted for public health uses.⁴ The AMA has supported several of those state laws, including in Kentucky⁵, New York⁶ and Virginia⁷, and also encourages states to consider model legislation developed by the Legislative Analysis and Public Policy Association in collaboration with other organizations.⁸ States and other jurisdictions that do not enact strong legislation stand the risk of funds going to non-public health uses.

To help guide states and other jurisdictions in the policymaking process, the AMA encourages use of principles developed by the Johns Hopkins School of Public Health⁹:

1. **Spend money to save lives.** Given the economic downturn, many states and localities will be tempted to use the dollars to fill holes in their budgets rather than expand needed programs. Jurisdictions should use the funds to supplement rather than replace existing spending.
2. **Use evidence to guide spending.** At this point in the overdose epidemic, researchers and clinicians have built a substantial body of evidence demonstrating what works and what does not. States and localities should use this information to make funding decisions.
3. **Invest in youth prevention.** States and localities should support children, youth, and families by making long-term investments in effective programs and strategies for community change.
4. **Focus on racial equity.** States and localities should direct significant funds to communities affected by years of discriminatory policies and now experiencing substantial increases in overdoses.
5. **Develop a fair and transparent process for deciding where to spend the funding.** This process should be guided by public health leaders with the active engagement of people and families with lived experience, clinicians, as well as other key groups.

If your state is interested in pursuing legislation to help ensure opioid-related litigation funds go to evidence-based measures to end the nation's drug overdose epidemic, please contact Daniel Blaney-Koen, JD, Senior Legislative Attorney, AMA Advocacy Resource Center, at daniel.blaney-koen@ama-assn.org or (312) 464-4954.

References

¹ AMA Policy H-95.918 says, “Our AMA will advocate that any monies paid to the states, received as a result of a settlement or judgment, or other financial arrangement or agreement as a result of litigation against pharmaceutical manufacturers, distributors, or other entities alleged to have engaged in unethical and deceptive misbranding, marketing, and advocacy of opioids, be used exclusively for research, education, prevention, and treatment of overdose, opioid use disorder, and pain.”

² “RESOLVED, That the American Bar Association urges federal, state, local, territorial and tribal governments and other public entities involved in the current opioid litigation to use proceeds from settlements of the litigation to address the harm resulting from the epidemic directly, by: (1) expanding treatment services for opioid use disorder, (2) creating additional transitional and extended housing programs to support those in treatment, (3) fostering community social service resources and harm-reduction/overdose prevention efforts, (4) furthering research on treatment and enhancing education and training of healthcare professionals, (5) educating patients and the public on the use and misuse of opioids, (6) reducing the stigma associated with having an opioid use disorder, and (7) improving healthcare infrastructure, especially at the community level, so as to increase the capacity of healthcare professionals to treat patients with opioid use disorder.” Adopted August 12-13, 2019. Available at <https://www.americanbar.org/content/dam/aba/directories/policy/annual-2019/117a-annual-2019.pdf>

³ See, Opioid Settlement Tracker, available at <https://www.opioidsettlementtracker.com/settlementspending>

⁴ How States Are Administering Opioid Settlement Funds. National Academy for State Health Policy. Available at <https://www.nashp.org/how-states-administering-opioid-settlement-funds/> The full list of states with laws and/or policy guidance: CO, CT, DE, ID, IL, KY, MA, MN, NE, NV, NY, OK, PA, TN, TX, VA, WI. Last accessed February 15, 2022.

⁵ Kentucky Chapter 113, House Bill 427. Signed March 24, 2021. Available at <https://apps.legislature.ky.gov/law/acts/21RS/documents/0113.pdf>

⁶ New York Senate Bill S7194. June 5, 2021. Available at <https://legislation.nysenate.gov/pdf/bills/2021/s7194>

⁷ Virginia House Bill 2322. Approved March 24, 2021. Available at <https://lis.virginia.gov/cgi-bin/legp604.exe?212+ful+CHAP0306>

⁸ Model Opioid Litigation Proceeds Act. Legislative Analysis and Public Policy Association. Issued October 21, 2021. Available at <https://legislativeanalysis.org/model-opioid-litigation-proceeds-act/>

⁹ Principles for the Use of Funds From the Opioid Litigation. Johns Hopkins School of Public Health. Available at <https://opioidprinciples.jhsph.edu/wp-content/uploads/2022/02/Opioid-Principles.pdf>