

LAWS OF DELAWARE
VOLUME 85
CHAPTER 171
153rd GENERAL ASSEMBLY
FORMERLY
HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 169

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE BEHAVIORAL HEALTH CONSORTIUM AND THE PRESCRIPTION OPIOID DISTRIBUTION COMMISSION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Subchapter VIII-A, Chapter 51, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

Subchapter VIII-A. Behavioral Health Consortium; Prescription Opioid Distribution Commission

§ 5195. Behavioral Health Consortium; ~~Prescription Opioid Distribution Commission.~~ Consortium.

(a) ~~The following are established:~~

(1) ~~The Behavioral Health Consortium, referred to in this subchapter as the “Consortium.”~~ “Consortium,” is established.

(2) ~~The Prescription Opioid Settlement Distribution Commission, a subcommittee of the Consortium, referred to in this subchapter as the “Commission.”~~

(b) (4) The Consortium shall provide oversight of the State’s private and public bodies or entities that affect behavioral health-care and substance use treatment to ensure the delivery of quality care.

(2) ~~The Commission is established to distribute the money in the Prescription Opioid Settlement Fund, “Settlement Fund,” under § 4808B of this title, and the Prescription Opioid Impact Fund, “Impact Fund”, under § 4803B of this title.~~

a. ~~The purpose of the Commission is to establish a coordinated and consensus driven effort to repair the harm done to communities in this State by the opioid crisis.~~

b. ~~Delaware is a high harm state with significant numbers of overdose deaths reported each year.~~

c. ~~The powerful, addictive qualities of opioids cause people who are suffering from substance use disorder to face a long road to recovery. The challenges of recovering from an addiction to opioids also has a tremendous impact on families, friends, and other loved ones, and first responders and the health-care system must expend significant resources to address the opioid crisis.~~

d. ~~The Commission shall distribute settlement moneys, as well as opioid impact fees, to ensure that the use of settlement proceeds and impact fees is coordinated to abate the opioid crisis in Delaware and not diverted to other purposes. It is the intent of the General Assembly that moneys from statewide opioid settlement agreements and the prescription opioid impact fee are used to maximize harm reduction from the opioid crisis and to provide Delawareans with a coordinated opportunity to provide input on the best ways to spend these moneys in order to abate the opioid crisis. The Commission will also ensure that decisions on how to spend opioid-related funds are based on the consensus of stakeholders through a process that considers the views and experiences of affected communities.~~

e. ~~For purposes of this subchapter, “statewide opioid settlement agreement” means as defined in § 4802B of this title.~~

f. ~~The terms of statewide opioid settlement agreements, bankruptcy plans, or other agreements for the payment of moneys by defendants in opioid-related litigation may provide a framework for how the moneys may be used to remediate the harm caused by the opioid crisis. The Commission must comply with all applicable terms when disbursing moneys derived from such settlements.~~

g. ~~In order to increase the amount of settlement dollars allocated to Delaware, it is the intent of the General Assembly that all state and local governments participate in this coordinated process for all settlement moneys to flow into the Prescription Opioid Settlement Fund and the Prescription Opioid Impact Fund.~~

(c) (1) The Consortium shall periodically report to the Governor and General Assembly, on a schedule to be determined by the Consortium, to recommend any potential legislative action that ensures quality delivery and expanded access to behavioral health care. ~~The first report is due by April 16, 2018.~~

(2) ~~Beginning January 1, 2022, the Commission shall produce an annual report, published on the Commission's website, that contains all of the following:~~

- ~~a. The amounts and sources of moneys received by the Prescription Opioid Settlement Fund.~~
- ~~b. The aggregate amount of moneys received by the Prescription Opioid Impact Fund.~~
- ~~c. By fund, the amounts and sources of any other moneys received.~~
- ~~d. By fund, the contracts or grants awarded by the Consortium, including the identity of each recipient, the amount of the award, the subject matter or program involved, and the primary terms and conditions of the award or contract.~~
- ~~e. By fund, the amounts disbursed in respect of approved contracts, grants and other authorized expenditures and administrative expenses, including amounts disbursed to qualifying local governments for local government block grants.~~

(3) ~~(2)~~ The Consortium and Commission shall provide a copy of each report under this subsection to the Director and the Librarian of the Division of Legislative Services and to the Delaware Public Archives.

§ 5196. ~~5195A.~~ Organization and composition of the Consortium.

(a) The Consortium is composed of ~~27 members~~, 25 members, as follows:

(1) ~~Eleven~~ Nine individuals, or their designees, who are members of the Consortium by virtue of their respective positions, as follows:

- ~~b. The Chair of the Behavioral and Mental Health Commission.~~ Maternal and Child Death Review Committee.
- ~~c. The Chair of the Center for Health Innovation.~~
- ~~j. i. The Attorney General, as co-chair of the Prescription Opioid Settlement Distribution Commission.~~ General.
- ~~k. The chair of the Local Government Committee of the Prescription Opioid Settlement Distribution Commission.~~

(2) Twelve individuals ~~who are members of the Consortium by appointment~~ appointed by the Governor, as follows:

- ~~b. Three~~ Two advocates from statewide or national nonprofit organizations that are dedicated to the improvement of behavioral health in this State.
- i. One veteran who has served on active duty in the U.S. Armed Forces, including the National Guard or the Reserves, and who has been impacted by behavioral health in this State.

(d) *Terms of the Consortium members.* — Governor appointed members are appointed for a term of ~~2 years~~. 2 years and may not serve more than 3 terms or a total of 6 years. The terms may be consecutive or nonconsecutive. The Governor, Speaker of the House of Representatives, or President Pro Tempore of the Senate may appoint a member for a term of less than 2 years to ensure terms expire on a staggered basis.

§ 5196. Prescription Opioid Settlement Distribution Commission.

(a) As used in this subchapter:

- (1) "Commission" means the Prescription Opioid Settlement Distribution Commission.
- (2) "Impact Fund" means the Prescription Opioid Impact Fund under § 4803B of this title.
- (3) "Settlement Fund" means the Prescription Opioid Settlement Fund under § 4808B of this title.
- (4) "Statewide opioid settlement agreement" means as defined in § 4802B of this title.

(b) Legislative Findings.

- (1) Delaware is a high harm state with significant numbers of overdose deaths reported each year.
- (2) The powerful, addictive qualities of opioids cause people who are suffering from substance use disorder to face a long road to recovery. The challenges of recovering from an addiction to opioids also has a tremendous impact on families, friends, and other loved ones, and first responders and the health-care system must expend significant resources to address the opioid crisis.

(c) The Commission is established to distribute the money in the Settlement Fund and the Impact Fund and to establish a coordinated and consensus driven effort to repair the harm done to communities in this State by the opioid crisis.

(1) The Commission shall distribute money from the Settlement Fund and the Impact Fund to ensure that the use of settlement proceeds and impact fees is coordinated to abate the opioid crisis in Delaware and not diverted to other purposes.

(2) It is the intent of the General Assembly that moneys from statewide opioid settlement agreements and the prescription opioid impact fee are used to maximize harm reduction from the opioid crisis and to provide Delawareans with a coordinated opportunity to provide input on the best ways to spend these moneys in order to abate the opioid crisis.

(3) The Commission must ensure that decisions on how to spend opioid-related funds are based on the consensus of stakeholders through a process that considers the views and experiences of affected communities.

(4) The terms of statewide opioid settlement agreements, bankruptcy plans, or other agreements for the payment of moneys by defendants in opioid-related litigation may provide a framework for how the moneys may be used to remediate the harm caused by the opioid crisis. The Commission must comply with all applicable terms when disbursing moneys derived from such settlements.

(5) In order to increase the amount of settlement dollars allocated to Delaware, it is the intent of the General Assembly that all state and local governments participate in a coordinated process for all settlement moneys to flow into the Settlement Fund and the Impact Fund.

(d) (1) The Commission shall produce an annual report, published on the Commission's website, that contains all of the following:

a. The amounts and sources of moneys received by the Settlement Fund.

b. The aggregate amount of moneys received by the Impact Fund.

c. By fund, the amounts and sources of any other moneys received.

d. By fund, the contracts or grants awarded by the Commission, including the identity of each recipient, the amount of the award, the subject matter or program involved, and the primary terms and conditions of the award or contract.

e. By fund, the amounts disbursed in respect to approved contracts, grants, and other authorized expenditures and administrative expenses, including amounts disbursed to qualifying local governments for local government block grants.

(2) The Commission shall provide a copy of the annual report to the Behavioral Health Consortium, to the Director and the Librarian of the Division of Legislative Services, and to the Delaware Public Archives.

§ 5196A. Organization and composition of the Prescription Opioid Settlement Distribution Commission.

(a) The Commission shall ~~make recommendations to the Consortium regarding~~ approve all distributions from the money in the Settlement Fund and the Impact Fund.

(c) Except as noted under paragraph (b)(9) of this section, appointed members are appointed for a term of 2 years and may not serve more than 3 terms or a total of 6 years. The terms may be consecutive or nonconsecutive. The appointing authority may appoint a member for a term of less than 2 years to ensure terms expire on a staggered basis.

~~(e) (d) The Attorney General and Governor, or their designees, shall co-chair~~ The Governor, or the Governor's designee, shall chair the ~~Commission~~ Commission. The Commission may elect a member of the Commission to serve as vice chair, with such duties as the Commission assigns. The chair of the Commission ~~and shall be~~ is responsible for guiding the administration of the Commission by, at a minimum, doing all of the following:

(5) Ensuring that any reports produced by the Commission are distributed to members of the Delaware General Assembly, the Governor, the Behavioral Health Consortium, the Director and the Librarian of the Division of Legislative Services, and the Delaware Public Archives.

~~(d) (e)~~ (1) A quorum of the Commission, or any committee of the Commission, is a majority of its current members. Official action by the Commission, including making ~~findings and recommendations~~, recommendations and distributing funds, requires the approval of the majority of the Commission members present at a public meeting where a quorum of the Commission is present.

(2) The chair and members of the Local Government Committee are selected in the same manner as other committees under ~~subsection (f)~~ subsection (g) of this section.

(4) The ~~Behavioral Health Consortium shall provide~~ Chair of the Commission shall coordinate administrative support ~~to~~ for the Commission.

~~(f) (g)~~ The Commission ~~co-chairs~~ chair may create additional committees. The Commission ~~co-chairs~~ chair shall appoint a member of the Commission to serve as the chair of each committee and the initial committee members. Additional committee

members may be appointed or removed by the chair of each committee. Individuals who are not members of the Commission may serve as a member of a committee.

§ 5196B. Distributions from the Prescription Opioid Settlement Fund and the Prescription Opioid Impact Fund.

(a) (1) The ~~Consortium~~ Commission shall distribute the money in the ~~Prescription Opioid Settlement Fund (Settlement Fund)~~ and the ~~Prescription Opioid Impact Fund (Impact Fund)~~ ~~based on the recommendations of the Commission~~ by awarding grants, by directing the Secretary of the Department of Health and Social Services to enter into contracts, or by distributing funds to State agencies and local governments to be administered as directed by the Commission.

(2) If the ~~Consortium~~ Commission does not ~~adopt a recommendation of the Commission~~, ~~the Consortium~~ approve a grant or funding to a State agency or local government, the Commission shall provide a written explanation of the decision and the Commission may revise that recommendation to the Consortium. applicant may be offered the opportunity to revise and resubmit the application.

(3) ~~The Consortium may not make a distribution from the Settlement Fund or Impact Fund without a conforming recommendation from the Commission for the distribution.~~

(b) The disbursement of money from the Settlement Fund and the Impact Fund, ~~distributed by the Consortium,~~ Fund shall be made by the State Treasurer upon authorization by all of the following, on a form designed for this purpose by the chair of the ~~Consortium~~ Commission and the State Treasurer:

- (1) The chair of the ~~Consortium.~~ Commission.
- (2) The Director of the Office of Management and Budget.
- (3) The Controller General.
- (4) The co-chairs of the Joint Finance Committee.

(c) The Director of the Office of Management and Budget may waive the requirements under Chapter 69 of Title 29 for distributions made by the ~~Consortium.~~ Commission.

Section 2. Amend Chapter 48B, Title 16 of the Delaware Code by making deletions as shown by underline as follows:

§ 4803B. Prescription Opioid Impact Fund.

(e) The ~~Behavioral Health Consortium~~ Prescription Opioid Settlement Distribution Commission shall distribute the money in the ~~Impact Fund based upon the recommendations of the Prescription Opioid Settlement Distribution Commission.~~ Fund.

§ 4808B. Prescription Opioid Settlement Fund.

(g) The ~~Behavioral Health Consortium~~ Prescription Opioid Settlement Distribution Commission shall distribute the money in the ~~Settlement Fund based upon the recommendations of the Prescription Opioid Settlement Distribution Commission.~~ Fund..

Approved August 25, 2025