



To: Illinois-Indiana Sea Grant

From: Betsy Randolph, Summer Associate, National Sea Grant Law Center

Re: Purdue Pharma and Johnson & Johnson Opioid Settlement Payouts (NSGLC-22-04-04)

Date: June 29, 2022

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### **Advisory Summary**

Illinois-Indiana Sea Grant contacted the NSGLC for information on how recent settlements with pharmaceutical companies in opioid lawsuits may be distributed to Great Lakes states. The settlement agreements are set to distribute funds to the states who signed onto the agreement. Neither lawsuit dictates what must be done with the money the states receive; however, it appears that most states have passed their own laws directing where the funds will be sent.

### **Background**

The opioid crisis has led to countless overdoses in the United States, with many states struggling to cope with the impacts of the opioid epidemic. Over the past few years, both Purdue Pharma and Johnson & Johnson (J&J) have faced numerous lawsuits over their roles in the opioid crisis. Two primary settlement agreements emerged from the opioid lawsuits. Purdue Pharma declared bankruptcy and began negotiations with numerous states to sort out a settlement agreement with the Sackler family—the owners of Purdue Pharma. The J&J settlement was in response to a series of lawsuits the company was facing that involved several other pharmaceutical companies. Illinois-Indiana Sea Grant contacted the NSGLC to ask about the finality of the settlement agreements and if the settlement money was set to be directed to certain funds.

### **Purdue Pharma Settlement**

The Purdue Pharma Settlement negotiations arose after Purdue filed for bankruptcy following a series of lawsuits over its role in the opioid crisis. The first settlement agreement was for around \$4.5 billion, which was to be distributed among the states involved in the litigation. Nine states appealed this settlement agreement and it was eventually struck down by a court because it included provisions shielding the Sackler family, who founded Purdue Pharma, from future criminal litigation.

On appeal, a new settlement agreement was reached which included additional money from the Sackler family. The new deal totals about \$6 billion dollars.<sup>1</sup> Roughly \$750 million will be put into a fund for individuals and families who have been harmed by opioid addictions. The nine states who appealed have individual deals for the amount of money they will receive from the new settlement terms. The remaining funds will be distributed to the other states who agreed to the terms of the settlement.

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<sup>1</sup> Purdue Pharma (S.D. NY 2022) (No. 19-23649).



The settlement agreement does not explicitly require the money to be directed towards a specific fund or program. However, it appears that a portion of the money each state receives will need to be set aside for dealing with the opioid epidemic. The U.S. Bankruptcy Court in New York has approved the agreement, but it is not yet finalized as it can be appealed.

### **Johnson & Johnson Settlement**

Johnson & Johnson reached a settlement agreement in early 2022. The settlement negotiations began in 2021 in response to countless civil lawsuits against J&J and other pharmaceutical companies for the role that they played in perpetuating the opioid epidemic. The J&J settlement is \$26 billion in total.<sup>2</sup> The money will be distributed to the states who have signed onto the agreement. A portion of the funds in the settlement are designated to be directed towards health care and drug treatment programs; however, the details of allocation are up to each individual state. The J&J settlement is finalized, and states should be receiving their payments soon.

### **Illinois-Indiana**

Illinois and Indiana are not mentioned in the available documents for the Purdue-Pharma settlement. However, they are both mentioned in the distributor agreement for the J&J settlement.<sup>3</sup> There is some conflict within the state of Indiana regarding cities and townships joining onto the state's distribution plan. Additionally, some local governments have individual lawsuits against pharmaceutical companies that they believe will produce a bigger payout for them than the state agreement with J&J.

With regard to Illinois, the state Attorney General issued a press release on the funds that the state is set to receive from the J&J settlement.<sup>4</sup> The Attorney General's office had dropped its previous opposition and had joined the original Purdue Pharma agreement prior to the appeal. It is unclear whether Illinois is a party to the new agreement; however, the language in the approval of the second settlement agreement that was issued by the U.S. Bankruptcy Court in New York suggests that the states who were party to the first agreement will still be receiving a payout under the terms of the new agreement. The approved plan mentions the Master Disbursement Fund created by the original plan and does not appear to change the terms beyond allowing the nine appealing states to oversee administration of the funds.

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<sup>2</sup> Brian Mann, 4 U.S. COMPANIES WILL PAY 26 BILLION TO SETTLE CLAIMS THEY FUELED THE OPIOID CRISIS, NPR (Feb. 25, 2022), <https://www.npr.org/2022/02/25/1082901958/opioid-settlement-johnson-26-billion>.

<sup>3</sup> Distributor Settlement Agreement (Final Agreement Mar. 25, 2022) (on file with the Indiana Attorney General)

<sup>4</sup> Illinois Attorney General, ATTORNEY GENERAL RAOUL ANNOUNCES FINAL APPROVAL OF \$26 BILLION NATIONAL OPIOID SETTLEMENT AGREEMENT (Feb. 25, 2022), [https://illinoisattorneygeneral.gov/pressroom/2022\\_02/20220225.html](https://illinoisattorneygeneral.gov/pressroom/2022_02/20220225.html).