

## *Texas's Opioid Settlements*

The United States is in the **midst of a crisis** on its streets and in its communities as **overdoses, homelessness, and disorder reach record levels**. Yet settlement proceeds secured by the State of Texas present an **unprecedented opportunity for generational investment** in treatment capacity for chronic substance abuse (CSA) and severe mental illness (SMI).

Texas is set to receive **more than \$2.5 billion** (\$2,597,012,043.93) in opioid settlement funds—equal to nearly twenty percent of the state's share of the monumental Tobacco Master Settlement Agreement.<sup>1</sup> With twenty-one separate settlements and payments spread out over decades, the funds are **at risk of being squandered** through ad-hoc allocations to **diffuse and disorganized efforts**.

The state must ensure that this opportunity for treatment investment does not go underutilized. **Texas can make targeted investments in treatment capacity** that will honor **those who suffered** in the opioid crisis and **ensure accessible care** for decades to come.

In effect, Texas reserves **15 percent** of opioid settlement proceeds for use by the **legislature** in an opioid abatement account, allocates **70 percent** of funds for use by the **Texas Opioid Abatement Council** (a combined \$2,263,808,364.09), and the remaining **15 percent** is allocated for use by **subdivisions**.<sup>ii</sup>

The 15 percent comprising the abatement account may only be appropriated to a state agency by the legislature for approved uses.<sup>2</sup> Statute provides eight example uses; however, Sec. 403.505(d)(9) provides that funds may be used for any purpose related to opioid abatement if authorized by the legislature.

The 14-person Texas Opioid Abatement Fund Council manages the bulk of funds.<sup>3</sup> Statute requires the Council to distribute 15 percent of its funds (or 10.5 percent of total funds) to hospital districts and directs the Council to expend the remaining money based on a Council-

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<sup>i</sup> Funds are first split with 15 percent distributed to the legislature and 85 percent to an opioid abatement trust fund. This trust fund is then further split with 17.65 percent (equivalent to 15 percent of total funds) allocated to subdivisions and the remaining 82.35 percent (equivalent to 70 percent of total funds) allocated to the Council. Additionally, \$5 million of the Council's share is first allocated to the Texas Access to Justice Foundation for providing indigent legal services for individuals directly impacted by OUD. See Texas Gov't. Code § 403.507(b); and Texas Gov't. Code § 403.506(c). <https://statutes.capitol.texas.gov/Docs/GV/pdf/GV.403.pdf>.

<sup>ii</sup> With the exception of the McKinsey and Publicis settlements, of which the state controls 100 percent of funds.

created opioid abatement strategy.<sup>4</sup> The strategy requires the Council to approve opioid abatement strategies, and distribute funds to grantees, balanced regionally based on two impact formulas.<sup>5</sup> **The legislature should amend state statute to vest control of the Council's share of funds in the legislature.**

One issue is that the Council has unilateral authority to determine what is an approved use of funds, which the Council determined by rule was any strategy provided in the (markedly “non-exhaustive”) list of suggested remediation strategies provided in the various settlement agreements.<sup>6</sup> **At minimum, the Council must amend this rule to a more expansive definition of approved uses.**

The state must rein in the potential misallocation and bureaucratization of these funds and prioritize decisive investments in comprehensive treatment networks. **Three priorities** (Certified Behavioral Health Clinics, secure psychiatric beds, and community SMI/CSA response) **will ensure these funds have the largest impact** on Texas.

## **Certified Community Behavioral Health Clinics (CCBHCs)**

CCBHCs are designed to ensure access to coordinated comprehensive behavioral health care, have stable funding and are supported by all recent presidential administrations. CCBHCs are a key response to the crisis and can augment other services such as police crisis response teams, homelessness outreach and services, and outpatient psychiatric commitment services.

- **Solution: Fund the development and expansion of CCBHCs.**
  - o Expand the CCBHC footprint with an emphasis on a team-based approach to co-occurring disorders.
  - o Create a stepped approach to SMI/CSA treatment with services provided by the CCBHCs.
  - o Require CCBHCs to offer specific care pathways to meet the needs of individuals with co-occurring disorders.

## **State Psychiatric Hospitals**

Inpatient beds in secure facilities are critical for serving the highest-acuity psychiatric patients. Texas currently has only **1.9 state psychiatric beds** per 100,000 people available for civil (i.e., non-criminal) patients.<sup>7 8</sup> Treatment Advocacy Center recommends a rate of 30-60 beds per 100,000. Even counting non-public secure psychiatric beds, Texas still falls short of the minimum.<sup>9</sup> Secure beds are costly, but a necessary expenditure to protect patients with severe psychiatric disorders and the public at large.

The Council is currently seeking grant applications for “recovery housing expansion,” though the \$25 million grant would be better used if directly appropriated by the legislature to the Texas Department of Health and Human Services for psychiatric bed reactivation.<sup>10</sup> Texas has more than 650 beds that are not currently in use.<sup>11</sup>

- **Solution: Fund the expansion of civil psychiatric beds.**
  - o Invest in expanding state hospital capacity.
  - o Move forensic (criminal) commitments to a jail-based restoration facility.
  - o Apply for one of several Section 1115(a) waivers to expand Medicaid reimbursement for institutions for mental diseases (IMDs).

## **Inpatient Stabilization Centers and Mobile Crisis Teams**

Emergency departments (EDs) are supposed to be a last-resort for times of true emergencies but are increasingly used for all types of immediate-need medical care, especially true for low- to medium-acuity mental health crises. In order for the other two priorities to have the largest impact, there must be an immediate triage of low-acuity patients from higher-need patients, or else these investments will be drowned out, overburdened, and underutilized by those that need them most, just like emergency departments.

- **Solution: Fund community-based mental health response resources.**
  - o Expand community-based recovery centers, including voluntary short-term respite housing, especially for young adults.
  - o Leverage CCBHC resources to develop comprehensive mobile crisis response teams in conjunction with police crisis intervention teams (CIT).
  - o Support integration with crisis networks such as the Lifeline to support those in need or provide guidance for concerned loved ones.

## TEXAS

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STATE-CONTROLLED FUNDS	ALL FUNDS	2025 EOY FUNDS RECEIVED - STATE	2025 EOY FUNDS RECEIVED - ALL	Av. Receipt (All Funds) / Yr (*20)
\$2,263,808,364.09	\$2,597,012,043.93	\$867,141,364.67	\$988,863,970.03	\$129,850,602.20

### 2021 National Opioid Settlement

Texas v. Distributors<sup>iii</sup>

- [Agreed Final Judgment](#)
  - [Exhibit A "Distributor Settlement Agreement"](#)
  - [Exhibit B "Distributors' Texas Settlement Agreement"](#)
  - [Exhibit C "Texas Opioid Abatement Fund Council and Settlement Allocation Term Sheet"](#)
- State of Texas v. AmerisourceBergen Corporation, et al., Travis County District Court, 459th Judicial District, Case No. D-1-GN-22-001930

### 2022 National Opioid Settlement

Texas v. CVS

- [Agreed Final Judgment](#)
  - Exhibit A "Global Opioid Settlement Agreement" [p. 13]
  - Exhibit B "Texas Statewide Opioid Settlement Agreement" [p. 725]
  - Exhibit D "Texas Opioid Abatement Fund Council and Settlement Allocation Term Sheet" [p. 754]
- State of Texas v. CVS Pharmacy, Inc., Travis County District Court, 459th Judicial District, Case No. D-1-GN-23-008986

Texas v. Walgreens

- [Agreed Final Judgment](#)
  - Exhibit A "Global Opioid Settlement Agreement" [p. 12]
  - Exhibit B "Texas Statewide Opioid Settlement Agreement"
  - Exhibit D "Texas Opioid Abatement Fund Council and Settlement Allocation Term Sheet" [p. 866]
- State of Texas v. Walgreen Co., Travis County District Court, 98th Judicial District, Case No. D-1-GN-24-000445

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<sup>iii</sup> Texas entered into a settlement conditional upon the Distributor Global Settlement Agreement becoming effective by July 1, 2022; this condition was met.

*Texas v. Walmart*

- [Agreed Final Judgment](#)
  - Exhibit A: “Global Opioid Settlement Agreement” [p.13]
  - Exhibit B “Texas Statewide Opioid Settlement Agreement” [p. 596]
  - Exhibit C “Texas Opioid Abatement Fund Council and Settlement Allocation Term Sheet” [p. 621]
- State of Texas v. Walmart Inc., Travis County District Court, 455th Judicial District, Case No. D-1-GN-24-000442

*Texas v. Allergan*

- [Agreed Final Judgment](#)
  - Exhibit A: “Global Opioid Settlement Agreement” [p. 14]
  - Exhibit B “Texas Addendum” [p. 482]
  - Exhibit C “Texas Opioid Abatement Fund Council and Settlement Allocation Term Sheet” [p. 499]
- State of Texas v. Allergan Limited and Allergan Finance, LLC, Travis County District Court, 53rd Judicial District, Case No. D-1-GN-23-007975

**Other Coalition Opioid Settlements***Texas v. McKinsey*

- [Agreed Final Judgment](#)
- [McKinsey Allocation Amounts](#)
- State of Texas v. McKinsey & Company, Inc. United States, Travis County District Court, 98th Judicial District, Case No. D-1-GN-21-000551

*Texas v. Mallinckrodt*

- [NOAT II Agreement](#)
- [Statewide Abatement Agreement](#)
- [Notice of Abatement Distribution](#)

*Texas v. Publicis*

- [Agreed Final Judgment](#)
- State of Texas v. Publicis Health, LLC, Travis County District Court, 455th Judicial District, Case No. D-1-GN-24-000636

**2025 National Settlements***Texas v. Purdue*

- [missing documentation]
- State of Texas v. Purdue Pharma L.P., et al., Harris County District Court, Case No. 2018-77003 [unconfirmed]

*Texas v. Mylan*

- [missing documentation]

*Texas v. Hikma*

- [missing documentation]

*Texas v. Amneal*

- [missing documentation]

*Texas v. Apotex*

- [missing documentation]

*Texas v. Indivior*

- [missing documentation]

*Texas v. Sun Pharmaceuticals*

- [missing documentation]

*Texas v. Alvogen*

- [missing documentation]

*Texas v. Zydus*

- [missing documentation]

### **Independent Settlements**

*Texas v. Janssen*

- [Agreed Final Judgment](#)
  - Exhibit A: Janssen Texas State-wide Opioid Settlement Agreement and Settlement Term Sheet” [p. 15]
    - Exhibit B “Texas Opioid Abatement Fund Council and Settlement Allocation Term Sheet” [p. 44]
  - Exhibit C “Injunctive Relief” [p. 87]
  - Exhibit D “Agreed Motion to Dismiss with Prejudice Claims...” [p. 101]
- State of Texas v. Johnson & Johnson, et al., Travis County District Court, 201st Judicial District, Case No. D-1-GN-22-000697

*Texas v. Endo*

- [Endo Texas State-wide Opioid Settlement Agreement and Settlement Term Sheet](#)
  - Exhibit B “Texas Opioid Abatement Fund Council and Settlement Allocation Term Sheet” [p. 24]
  - Exhibit C “Injunctive Relief” [p. 81]
  - Exhibit D “Agreed Motion to Dismiss with Prejudice Claims...” [p. 97]
- In Re: Texas Opioid Litigation, Harris County District Court, 152nd Judicial District, Case No. MDL No. 18-0358, Master File No. 2018-63587

*Texas v. Teva*

- [Teva Texas State-wide Opioid Settlement and Consent Judgment](#)
  - Exhibit A “State Plan for Acceptance and Delivery of Settlement Product” [p. 28]
  - Exhibit C “Texas Opioid Abatement Fund Council and Settlement Allocation Term Sheet” [p. 32]
  - Exhibit D “Injunctive Relief” [p. 67]
  - Exhibit E “Agreed Motion to Dismiss with Prejudice Claims...” [p. 85]
  - Exhibit H “Master Purchase Agreement ... by and between ... Allergan PLC and Teva Pharmaceutical Industries LTD.” [p. 106]
- In Re: Texas Opioid Litigation, Harris County District Court, 152nd Judicial District, Case No. MDL No. 18-0358, Master File No. 2018-63587

*Texas v. Kroger*

- [Kroger Texas Statewide Opioid Settlement Agreement and Release](#)
  - Exhibit E (Payment Schedule) [p. 51]
- In Re: Texas Opioid Litigation, Harris County District Court, 152nd Judicial District, Case No. MDL No. 18-0358, Master File No. 2018-63587

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<sup>1</sup> KFF. “Actual Tobacco Settlement Payments Received by the States (in millions).” Accessed 8 September 2025.

<https://www.kff.org/health-costs/state-indicator/tobacco-settlement-payments>.

<sup>2</sup> Texas Gov’t. Code § 403.505(d). <https://statutes.capitol.texas.gov/Docs/GV/pdf/GV.403.pdf>.

<sup>3</sup> Texas Gov’t. Code § 403.503. <https://statutes.capitol.texas.gov/Docs/GV/pdf/GV.403.pdf>.

<sup>4</sup> Texas Gov’t. Code § 403.508(a). <https://statutes.capitol.texas.gov/Docs/GV/pdf/GV.403.pdf>.

<sup>5</sup> Texas Gov’t. Code § 403.509(a)(1). <https://statutes.capitol.texas.gov/Docs/GV/pdf/GV.403.pdf>.

<sup>6</sup> 34 T.A.C. § 16.201. Opioid Abatement Strategies. [https://texas-sos.appianportalsgov.com/rules-and-meetings?%24locale=en\\_US&interface=VIEW\\_TAC\\_SUMMARY&queryAsDate=09%2F18%2F2025&recordId=214220](https://texas-sos.appianportalsgov.com/rules-and-meetings?%24locale=en_US&interface=VIEW_TAC_SUMMARY&queryAsDate=09%2F18%2F2025&recordId=214220). For the non-exhaustive list of suggested remediation uses, see “Exhibit E.”

[https://drive.google.com/file/d/1k76jQGP2aJZSAHmzyESfDkzEGGLSgk4l/view?usp=share\\_link](https://drive.google.com/file/d/1k76jQGP2aJZSAHmzyESfDkzEGGLSgk4l/view?usp=share_link).

<sup>7</sup> Treatment Advocacy Center, “Texas Psychiatric Beds Report.” 2023. <https://www.tac.org/wp-content/uploads/2023/10/Texasbedsinformation.pdf>.

<sup>8</sup> United States Census Bureau, “2023 American Community Survey – Total Population.”

[https://data.census.gov/table/ACSDT1Y2023.B01003?q=population&t=Population+Total&q=010XX00US\\$0400000](https://data.census.gov/table/ACSDT1Y2023.B01003?q=population&t=Population+Total&q=010XX00US$0400000).

<sup>9</sup> Silver, Shanti, “Estimating Psychiatric Bed Need in the United States,” p. 2-4. Treatment Advocacy Center Office of Research and Public Affairs. January 2024. [https://www.tac.org/wp-content/uploads/2024/03/TAC\\_ORPA\\_ResearchSummary1.24.pdf](https://www.tac.org/wp-content/uploads/2024/03/TAC_ORPA_ResearchSummary1.24.pdf).

<sup>10</sup> Texas Comptroller of Accounts, “Texas Opioid Abatement Fund Council Targeted Strategy Grant: Recovery Housing Expansion.” <https://www.txsmartbuy.gov/esbd-grants/304-OAFC-25-0002>.

<sup>11</sup> Treatment Advocacy Center, “Texas Psychiatric Beds Report.” 2023. <https://www.tac.org/wp-content/uploads/2023/10/Texasbedsinformation.pdf>.