

**Pennsylvania Opioid Misuse and Addiction Abatement Trust  
Minutes of the Public Meeting of September 7, 2023, 2:00PM**

222 Chestnut Street, Harrisburg, PA, Room 211C

<https://us02web.zoom.us/j/87135399743>

**Board of Trustee Attendees:**

- Chair Tom VanKirk (In person)
- Commissioner Kevin Boozel (Zoom)
- Erin Dalton (Zoom)
- Secretary Latika Davis-Jones (In person)
- Commissioner Gene DiGirolamo (Zoom)
- Representative Jim Gregory (Zoom)
- Steve Jasper (Zoom)
- Shea Madden (Zoom, left early)
- Commissioner Robert Postal (Zoom)
- Senator Greg Rothman (Zoom)
- Representative Mark Rozzi (Zoom)
- Dr. H. Jean Wright II (Zoom)

**Other Attendees:**

- Morgan Wagner (Greg Rothman's office)
- Kellie Hileman (Jim Gregory's office)
- Nate McClellan (on behalf of Christine Tartaglione)
- Jack Stover (Buchanan Ingersoll & Rooney)
- Jayson Wolfgang (Buchanan Ingersoll & Rooney) (Zoom)
- Jordan Yeagley (Buchanan Ingersoll & Rooney)
- Dennis Scanlon (Penn State University)
- Glenn Sterner (Penn State University)
- Jim Donahue (Office of the Attorney General)
- Neil Mara (Office of the Attorney General)
- Tyler Ritchie (Office of the Attorney General)
- Claudia Shank (McNees Wallace & Nurick)
- Heather Hiester (CCAP)
- Elaine Fogdall (CCAP)

**Announcements**

- Welcome to members of public attending in person and on Zoom.
- Participation in the meeting is limited to trustees and representatives from their offices and guests from the Trust's partners.
- The meeting is being recorded.
- A quorum of trustees is present at the meeting.

**Minutes**

Steve Jasper moved, "approval of the [Minutes from May 18, 2023 Public Meeting](#) as presented" Secretary Davis-Jones second the motion. The motion was approved unanimously by Trustees in attendance.

## **Financial Report**

Elaine Fogdall, CCAP, presented a [Financial Report](#) that includes payments received by the Trust in 2022 and 2023, disbursements allocated in 2022, and estimated disbursements for 2023. This information was linked on the agenda and is also posted on the POMAAT website.

Chair VanKirk noted the Trust has received invoices from Wilmington Trust for approximately \$16,000 for check and wire disbursements to date. The Trust's investments in Wilmington Trust have earned over \$1M to date. The Trust has set up a separate account for administrative expenses. The intention is to pay all administrative expenses from earnings on the Wilmington Trust account. As discussed previously, an initial allocation of \$300,000 has been transferred into this account. This will cover legal expenses, CCAP administrative expenses, and payments to Penn State, per the contracts.

## **Right to Know Law Requests**

Jack Stover, Buchanan Ingersoll & Rooney, provided an update on Right to Know Law requests received by the Trust. Over the past several months, the Trust received a number of records requests as did CCAP, several counties, DDAP, and others. A series of appeals for these records were filed by Spotlight PA reporter Ed Mahon with the Office of Open Records. On September 1, the OOR issued a determination, stating that the Right to Know Law does not apply to the Trust and therefore requests received by the Trust are outside of the jurisdiction of the OOR. The OOR made an additional determination regarding a Right to Know Law appeal relating to Bucks County, stating that Trust communications sent to Commissioner DiGirolamo in his capacity as a commissioner should be included in responses to the Right to Know Law requests; however, communications sent to Commissioner DiGirolamo in his capacity as a Trustee of the Trust are not subject to the Right to Know law or within the jurisdiction of the OOR.

## **"Wave 2" Settlements**

Neil Mara, Office of Attorney General, stated that to date, the Trust has distributed "wave 1" payments from six opioid manufacturers. Those payments will continue to be distributed by the Trust. In addition, a new group of five settlements comprising "wave 2" have been achieved nationally with opioid manufacturers Teva and Allergan and pharmacy chains Walmart, Walgreens, and CVS. The maximum total the Trust can expect to receive from these "wave 2" payments in 2024 is \$148,086,297.23 (Allergan: \$11.8M; Teva \$10.4M, Walmart \$94.9M, Walgreens \$16.9M, CVS \$14M). It was noted that the amount of Walmart settlement funds anticipated in 2024 is significantly greater than others as those payments will be made in a shorter timeframe. While the parties have agreed to these settlement payments, they will not become fully effective until they have court approval in Pennsylvania, and this will likely not happen until 2024.

Due to the significant amount of funding anticipated from these settlements in 2024, Chair Tom VanKirk suggested there could be advantages to potentially deferring payments so as not to overload counties and subdivisions with too much to spend in a short timeframe. Commissioner Boozel offered a motion to give the Trust flexibility to work with the Attorney General's office to determine an appropriate allocation schedule for payments received by the Trust in 2024. Commissioner DiGirolamo seconded the motion. The motion was approved unanimously by Trustees in attendance.

### **Purdue Pharma/Sackler Family/Mallinckrodt**

Neil Mara, Office of Attorney General, provided an update on Purdue Pharma/Sackler family litigation sharing that the case is scheduled for briefing with the US Supreme Court this fall. The matter being considered relates to Purdue Pharma, as a company, declaring bankruptcy, however the Sackler family did not. The court will need to decide if the Sackler family, a nonbankrupt third party, can receive protection from the company bankruptcy ruling. There will be no payments from the settlement with Purdue Pharma until this case has been decided.

Mallinckrodt is another opioid manufacturer that declared bankruptcy. It is not part of wave 1. Pennsylvania originally anticipated receiving approximately \$49 million in settlement funds from the agreements in this case, however the company has declared bankruptcy again. The Trust has already received \$7M from the company and anticipates receiving another \$7M payment, however there will likely be no additional payments from Mallinckrodt. Chair Tom VanKirk explained that the initial payment of \$7M from Mallinckrodt will be included in payment 3 from the Trust.

### **Presentation on Data Collection Services**

Dennis Scanlon and Glenn Sterner, Penn State University, presented an overview of the data collection tool that has been compiled by Penn State, Temple, and Pitt.

- The purpose of the reporting tool is to create a standardized approach for counties and municipalities to report details about how they have spent (and plan to spend) settlement funds received.
- REDCap was selected for the data collection tool to follow data security requirements and allow for streamlined longitudinal data collection.
- The reporting tool will include questions about funds spent in accordance with Exhibit E. Additional questions will include whether an extension is being requested, provide an opportunity to share funding partners, and other sources of funding. There will be an opportunity to attach a document.
- FAQs related to the data collection tool will be gathered and there will be training opportunities for those filing the reports.

Chair Tom VanKirk noted the reporting tool would be shared with a test group of counties prior to being distributed for completion. It was noted the current court order only requires counties to report, it does not specifically require subdivisions to report, however this will likely be amended in a future court order. Commissioner Boozel asked whether there would be an opportunity to report one-time costs and offered to be part of the reporting tool review team.

Commissioner Postal moved to “proceed with the test run and training sessions of the reporting tool as presented.” Commissioner DiGirolamo seconded the motion. The motion was approved unanimously by Trustees in attendance.

### **2023 Estimated Disbursements**

Chair Tom VanKirk noted the [2023 Estimated Disbursements to Counties and Subdivisions](#) was sent to counties and subdivisions on August 30, 2023. This information is also posted on the Trust website.

### **Amended Resolution**

The Trust’s Bank (M&T) requires a Trust board resolution to show who can act for the Trust in transactions involving the “Administrative Account” recently established. An amended resolution was presented naming Thomas VanKirk, the chair of the Trust, or Heather Hiester, Director of Technology

Programs and Partnerships of the County Commissioners Association of Pennsylvania (“CCAP”) which provides Administrative Services to the Trust pursuant to a Master Service Agreement, as an individual who can act for the Trust on said account; provided, however, that Ms. Hiester may not be the signatory on any payment for the benefit of CCAP.

Commissioner Postal moved to “approve the amended resolution as presented.” Commissioner Boozel seconded the motion. The motion was approved unanimously by Trustees in attendance.

### **Process to Request Extension**

A process for counties and subdivisions requesting an extension to spend funding received was presented. Counties and subdivisions wishing to request a 6-month extension, beyond 18 months of receipt of funds, will have the option to request an extension when completing their annual report to the Trust. While extensions for funds received in payment 1 and 2 must be requested, they will automatically be granted.

Commissioner Boozel moved to “approve the process to request an extension as presented.” Commissioner Postal seconded the motion. The motion was approved unanimously by Trustees in attendance.

### **Process to Respond to Trust Inquiries**

A process to respond to Trust inquiries was presented. Chair Tom VanKirk noted the Technical Advisory Group was formed to respond to inquiries received by the Trust. A group of questions and responses was reviewed and approved at the last meeting and an additional group of questions and responses will be reviewed at this meeting. The process being reviewed at this meeting will give the full board an opportunity to weigh in on the responses without needing to call an additional full board meeting.

Commissioner Boozel made a motion to “approve the process to respond to Trust inquiries as presented.” Secretary Davis-Jones seconded the motion. Commissioner Postal suggested an amendment changing all references in the process from “five days” to “five business days”. The amended motion was approved unanimously by Trustees in attendance.

### **Responses Proposed by Technical Advisory Group**

There was discussion of a set of responses proposed by the Technical Advisory Group formed to address Exhibit E and other questions received by the Trust. It was noted efforts are being made to shorten the turn-around time to respond to inquiries. It was also noted that all approved responses will be posted on the Trust website. It was suggested that additional information about how members of the Board of Trustees were selected should be added to the website. FAQ information about how the public can provide input on how funds are spent by counties should also be added to the website.

Commissioner Postal moved to “approve the responses proposed by the Technical Advisory Group as presented.” Commissioner Boozel seconded the motion. The motion was approved unanimously by Trustees in attendance.

### **National Settlement Funds Conference Update**

Commissioner Kevin Boozel shared that he recently participated in the Opioid Settlement Leadership Network (OSLN) conference. There is a wide range of ways various states are approaching settlement

funding. His impression is that Pennsylvania has a well-coordinated effort working with Single County Authorities and a comprehensive approach to fund allocation. This is not the case in all states. Commissioner Boozel suggested the Trust consider putting together best practices to share in the future.

### **New Business**

Chair Tom VanKirk noted the Trust is required to make an annual report to the court. Buchanan Ingersoll & Rooney, in collaboration with CCAP, will be putting together a report to be filed in October 2023. Future reports will be filed on or about May 1 of each year starting in 2024.

### **Upcoming Meetings**

- November 30, 2023 is the next Trust Meeting. All Trustees are asked to save to the date and please make every effort to attend.
- Please watch for a tentative list of meeting dates for 2024 soon.

Secretary Davis-Jones made a motion to adjourn the meeting. Commissioner Postal seconded the motion. The meeting was adjourned at 4:02PM.

Submitted by Elaine Fogdall, Trust Administrator