

Pennsylvania Opioid Misuse and Addiction Abatement Trust
Public Meeting of August 22, 2024 | 1:30 PM
Harrisburg University

MINUTES

Board of Trustee Attendees (10):

- Chair Tom VanKirk (In person)
- Commissioner Robert Postal (In person)
- Secretary Latika Davis-Jones (In person)
- Commissioner Gene DiGirolamo (Zoom)
- Shea Madden (Zoom)
- Erin Dalton (Zoom)
- Steve Jasper (Zoom)
- Tumar Alexander (Zoom)
- Senator Christine Tartaglione (Zoom)
- Senator Greg Rothman (Zoom)

Board of Trustees Not Attending (3):

- Commissioner Kevin Boozel
- Representative Mark Rozzi
- Representative Jim Struzzi

Other Attendees:

- Emily Lewis on behalf of Representative Jim Struzzi (Zoom)
- Morgan Wagner, Senator Greg Rothman's Office (In person)
- Neil Mara, Office of Attorney General (Zoom)
- Tyler Ritchie, Office of Attorney General (Zoom)
- Jayson Wolfgang, Buchanan Ingersoll & Rooney (In person)
- Jordan Yeagley, Buchanan Ingersoll & Rooney (In person)
- Lisa Ritter, Maher Duessel (In person)
- Briana Anderson, CCAP (In person)
- Kimberly Ade, CCAP (In person)
- Dennis Scanlon, Penn State University (Zoom)
- Glenn Sterner, Penn State University (In person)
- Amy Yeung, Penn State University (Zoom)

Announcements

- Welcome to members of the public attending both in person and on Zoom.
- This meeting of the Pennsylvania Opioid Misuse and Addiction Abatement Trust has been duly advertised as a public meeting in accordance with the Sunshine Act and is therefore open to members of the public as observers.
- Participation in the meeting is limited to Trustees, representatives from their offices and guests from the Trust's advisors and partners.
- This meeting is being recorded and the video will be available on the Trust's website along with minutes from this meeting after they are approved.
- Executive Session was held today immediately prior to this public meeting for the purposes of receiving legal updates and legal advice.
- A quorum of Trustees is present at the meeting.

Approval of Prior Meeting Minutes

Minutes from the public meeting held on June 20, 2024, were circulated in advance. No edits or additions were made, and the minutes were approved as circulated.

Report from Attorney General's Office Regarding Status of Wave II Settlements

Tyler Ritchie from the Office of Attorney General (OAG) provided an update on the Wave II settlements, reporting that the OAG has met all prerequisites for the National Administrators to disburse funds to the Trust. He noted that the OAG has also achieved the necessary threshold of Participating Subdivisions approving the First Amended and Restated Trust Order (Amended Order). The next step is for the OAG to seek approval of the Amended Order from the Commonwealth Court, as the Trust can only distribute the Wave II funds once the Amended Order is approved.

Chair Tom VanKirk commented on this update, highlighting that the original Trust Order, which established the Trust in 2022, took six months to approve. Although the approval process for the Amended Order may not take as long, the exact timeline is uncertain. The timing of the approval will determine if the Wave II funds can be distributed this year. Importantly, the Amended Order extends the deadline for the expenditure of funds from the Walmart settlement to 42 months. This extension was requested on behalf of the Counties, as some expressed concerns about how to spend the money in a timely fashion, given that all settlement funds from Walmart will be paid in one lump sum and not over time.

Chair Tom VanKirk then explained that the Wave II settlements were reached nationally in 2023, but Pennsylvania did not receive payment that year. Consequently, the Trust has now received both

the 2023 (payment 1) and 2024 (payment 2) Wave II settlement funds, totaling approximately \$192 million.

Chair Tom VanKirk emphasized that for the Trust to distribute Wave II settlement funds, the Amended Order must first be approved. If the Amended Order is approved sufficiently in advance of the December 15, 2024, distribution, the Trust will likely need to hold a special meeting to include the Wave II funds in that distribution.

To facilitate planning for the Participating Subdivisions, Lisa Ritter from Maher Duessel will begin working on distribution calculations that incorporate the Wave II funds. Chair VanKirk indicated that these calculations would be made available to the Trustees and Participating Subdivisions.

Resolution to Authorize September 1, 2024, Notices of Estimated Distributions

Chair Tom VanKirk stated that the Trust is required by the Trust Order to inform the Participating Subdivisions of their distribution amounts by September 1 each year, with payments scheduled for December 15 of that year. This notification includes a spreadsheet detailing the estimated amounts for each Participating Subdivision.

He noted that a \$21 million payment from Cencora, received by the Trust in February, will not be included in this year's distribution, as it was a prepayment for Year 7. Chair Tom VanKirk recommended holding these funds until the scheduled payout for year 7 (2028), as there are already significant funds on-hand for the December 15, 2024, distribution. Since these funds were not anticipated for this year's distribution, he proposed leaving them in the bank to accumulate interest and paying it out as originally planned. Commissioner Robert Postal concurred with this approach.

Chair Tom VanKirk then presented the following resolution for approval:

RESOLVED, that the County Commissioners Association of Pennsylvania (CCAP), as administrator for the Trust, shall be authorized to distribute the September 1 Notice to Counties and Litigating Subdivisions in a form substantially similar to the Notice distributed to Trustees in advance of the meeting and, after it is distributed, to post the same on the Trust's website.

Commissioner Robert Postal made a motion to approve the resolution as presented. Tumar Alexander seconded the motion. With no further discussion, the motion was approved unanimously by Trustees in attendance.

June 20, 2024, Requests for Additional Information and Resolutions Regarding Certain Programs Reported Therein

Pursuant to the Trust Order, each County was required to submit a report to the Board of Trustees by March 15, 2024, demonstrating the actual expenditures of Trust funds and the amount of Trust funds received but not yet spent by the end of the preceding calendar year. Additionally, Litigating

Subdivisions were encouraged, and potentially may be required in the future, to furnish such reports.

At the May 2 and June 20, 2024, public meetings, the Board reviewed and voted on recommendations from the Working Groups. Each program was either characterized as recommended for approval, still under consideration, or recommended non-compliant. Following the May 2 and June 20, 2024, public meetings, Counties were notified of the categorization of their program(s) and, for those programs still under consideration, the Trust sought additional information to determine compliance with Exhibit E. Counties were asked to submit additional information for the Working Groups to review and prepare recommendations for this meeting. Chair VanKirk explained the steps that occurred before deliberating on the programs and recommendations of the Working Groups:

- The Board reviewed the recommendations made by the Working Groups to fulfill its responsibilities under the Trust Order, enabling the public to better understand how Trust funds were utilized to address opioid remediation.
- Following this meeting and subsequent Board actions, each County will receive a communication from the Trust detailing programs approved as compliant with Exhibit E.
- Any programs found not compliant with Exhibit E will also be identified in the follow-up communication.
- Pursuant to the Trust Order, Counties and Litigating Subdivisions must utilize Trust funds within 18 months of receipt. However, acknowledging the need for recipients to plan the expenditure of Trust funds, the Board unanimously passed a resolution on September 7, 2023, granting requests for a 6-month extension for funds received in Wave I payments 1 and 2, which occurred in September 2022 and December 2022, respectively. These extensions have been granted to those Counties and Litigating Subdivisions that requested them, and the Board will communicate applicable deadlines accordingly.

With these points clarified, the Board of Trustees proceeded to review the programs categorized as still under consideration as of the conclusion of the June 20, 2024, public meeting and the recommendations of the Working Groups with respect to those programs.

A spreadsheet containing a list of these programs by County in alphabetical order was displayed. Each Working Group leader identified the program by County name, Program number as reported in the March 15 report from that County, Program Name, Dollars reported as spent/committed, and the Working Group's recommendation (approved or non-compliant).

The Working Group leaders then summarized the recommendations of their respective Working Groups with respect to programs reported by Cameron, Chester, Dauphin, Fayette, Jefferson, Lancaster, and Lebanon Counties. During those presentations, Secretary Latika Davis-Jones reported that Cameron County did not provide the requested additional information necessary for

the Trustees to understand the specifics of Program Nos. 1-3. She indicated that it appeared these salaries were being supplemented with opioid settlement funds (OSF).

RESOLUTION NO. 1 – FOLLOW-UP REPORTS: CAMERON, CHESTER, DAUPHIN, FAYETTE, JEFFERSON, LANCASTER AND LEBANON COUNTY

RESOLVED, that, the Board of Trustees of the Pennsylvania Opioid Misuse and Addiction Abatement Trust (the “Trust”), based on the recommendations of the Working Groups that met and reviewed the follow-up reports from Counties, hereby approves the following programs as compliant with the applicable settlement terms as set forth in Exhibit described and incorporated into the July 12, 2022 Order of the Commonwealth Court that created the Trust:

- Chester County Program No.: 12
- Dauphin County Program No.: 5
- Fayette County Program No.: 4
- Jefferson County Program Nos.: 1-2
- Lebanon County Program Nos.: 1-3

Commissioner Robert Postal made a motion to approve the resolution as presented. Commissioner Gene DiGirolamo seconded the motion. Shea Madden voted no for Lebanon County Program No. 3 only; otherwise, she voted yes. The motion was approved by majority of the Trustees in attendance.

AND FURTHER RESOLVED, that, the Board of Trustees of the Trust, based on the recommendations of the Working Groups, hereby disapproves the following programs as non-compliant with the applicable settlement terms as set forth in Exhibit E:

- Cameron County Program Nos.: 1-3
- Lancaster County Program No.: 6

Commissioner Robert Postal made a motion to approve the resolution as presented. Secretary Latika Davis-Jones seconded the motion. The motion was approved unanimously by Trustees in attendance.

The Working Group leaders then summarized the recommendations of their respective Working Groups with respect to programs reported by Mercer, Montgomery, and Northampton Counties.

RESOLUTION NO. 2 – FOLLOW-UP REPORTS: MERCER, MONTGOMERY AND NORTHAMPTON COUNTY

RESOLVED, that, the Board of Trustees of the Trust, based on the recommendations of the Working Groups that met and reviewed the follow-up reports from Counties, hereby

approves the following programs as compliant with the applicable settlement terms as set forth in Exhibit E described and incorporated into the July 12, 2022 Order of the Commonwealth Court that created the Trust:

- Mercer County Program No.: 10
- Montgomery County Program Nos.: 1, 6, 8
- Northampton County Program Nos.:
 - No. 1 (at the amount of \$4,180)
 - No. 2 (at the amount of \$6,509)

Commissioner Robert Postal made a motion to approve the resolution as presented. Commissioner Gene DiGirolamo seconded the motion. The motion was approved unanimously by Trustees in attendance.

The Working Group leaders then summarized the recommendations of their respective Working Groups with respect to programs reported by Philadelphia County. Chair Tom VanKirk noted that Philadelphia County Program Nos. 8 and 9 include several sub-programs/mini grants under the main program. As a result, the Trustees in Working Group 1 reviewed the information at the sub-program level and will be voting on each individually rather than on the program as a whole. Commissioner Robert Postal and Chair Tom VanKirk expressed their gratitude to Working Group 1 for the countless hours and effort dedicated to reviewing Philadelphia's programs. Senator Greg Rothman requested a description of Philadelphia Program No. 8(b)11 (AMANDLA, Inc. – Safe-Hub Philadelphia). In response, Commissioner Robert Postal read the program's description: "Prevention, education, and engagement in wellness programming for youth and other populations at risk of drug use."

RESOLUTION NO. 3 – FOLLOW-UP REPORTS: PHILADELPHIA COUNTY

RESOLVED, that, the Board of Trustees of the Trust, based on the recommendations of the Working Groups that met and reviewed the follow-up reports from Counties, hereby approves the following programs as compliant with the applicable settlement terms as set forth in Exhibit E described and incorporated into the July 12, 2022 Order of the Commonwealth Court that created the Trust:

- Philadelphia County Program Nos.:
 - 8(a) 7, 9
 - 8(b) 1, 3, 8-9, 11, 14, 16-17
 - 8(c) 1-8, 10-14, 16-18, 20-28, 30-31, 34-36

Tumar Alexander made a motion to approve the resolution as presented. Senator Christine Tartaglione seconded the motion. The motion was approved unanimously by Trustees in attendance.

AND FURTHER RESOLVED, that, the Board of Trustees of the Trust, based on the recommendations of the Working Groups, hereby disapproves the following programs as non-compliant with the applicable settlement terms as set forth in Exhibit E:

- Philadelphia County Program Nos.: 8(c) 15, 19, 29, 33

Commissioner Robert Postal made a motion to approve the resolution as presented. Senator Christine Tartaglione seconded the motion. Tumar Alexander voted no. The motion was otherwise approved by a majority of the Trustees in attendance.

The Working Group leaders then summarized the recommendations of their respective Working Groups with respect to programs reported by Tioga, Washington, and Westmoreland Counties.

Secretary Latika Davis-Jones requested more information on Westmoreland County Program Nos. 10 and 11. Briana Anderson, the Opioid Trust Administrative Director, reported that Program No. 10 aims to support the expansion and upgrade of Gateway Rehabilitation Center's non-hospital detox rehab unit. This includes recruitment and retention efforts, IT upgrades, cameras, remote access, and body and belongings scanners to prevent the entry of opioids and other drugs into the facility. Ms. Anderson also explained that Program No. 11 is designed to provide methadone treatment to eligible inmates, including pregnant individuals currently enrolled in a methadone program or seeking to start medication assisted treatment for OUD. This initiative ensures continuous care and support for inmates with OUD, improving their chances of successful recovery and reintegration into society.

RESOLUTION NO. 4 – FOLLOW-UP REPORTS: TIOGA, WASHINGTON AND WESTMORELAND COUNTY

RESOLVED, that, the Board of Trustees of the Trust, based on the recommendations of the Working Groups that met and reviewed the follow-up reports from Counties, hereby approves the following programs as compliant with the applicable settlement terms as set forth in Exhibit E described and incorporated into the July 12, 2022 Order of the Commonwealth Court that created the Trust:

- Tioga County Program Nos.: 2, 4
- Washington County Program No.: 1
- Westmoreland County Program Nos.: 1-2, 4-11

Commissioner Gene DiGirolamo made a motion to approve the resolution as presented. Senator Christine Tartaglione seconded the motion. The motion was approved unanimously by Trustees in attendance.

Chair Tom VanKirk expressed hope that this process served as a valuable learning experience for everyone involved. He noted that if the Trustees had received detailed information from the start, many programs could have been approved more quickly. He emphasized the importance of submitting information that clearly connects a program to Exhibit E with specific detail.

Resolution on Reconciliation of Funds in Expenditure Reporting

Chair Tom VanKirk noted that some Counties revised their originally reported amounts after gathering additional information, which necessitated reconciliation. Chair VanKirk emphasized the importance of accurate reconciliation, so that Counties have correct records of approved spending related to applicable expenditure deadlines. Chair VanKirk then asked for the following resolution:

RESOLVED, that, the County Commissioners Association of Pennsylvania (CCAP), as administrator for the Trust, is authorized to work with Penn State, Maher Duessel and counsel for the Trust to reconcile the amount of funds reported by Participating Subdivisions required to report to the Trust. After any such reconciliation is performed, an updated spreadsheet of the reconciled funding amounts related to specific programs reported by such Participating Subdivisions will be made available on the Trust's website. This will be in addition to, and not in lieu of, public posting on the website of spreadsheets reflecting actions by the Board of Trustees on such programs for compliance with Exhibit E.

Commissioner Robert Postal made a motion to approve the resolution as presented. Secretary Latika Davis-Jones seconded the motion. Ms. Anderson explained that the need for reconciliation arose from confusion among some Counties regarding the distinction between spent and committed dollars, as well as the withdrawal of certain programs by some Counties. Chair Tom VanKirk expressed hope that these issues will be minimized moving forward. He also mentioned that Penn State has conducted pilot sessions with select Counties to review the report due on September 16, 2024. The motion was then approved unanimously by Trustees in attendance.

Announcement regarding appeals filed to date with the Trust

Chair Tom VanKirk announced that several appeals had been filed regarding programs deemed non-compliant by the Board at a public meeting. The Trust has established a Dispute Resolution Committee, consisting of seven members, to hear these appeals, with their decisions being the final determination of the Trust. Chair Tom VanKirk shared that the goal of the Dispute Resolution Committee was to save Counties resources and to provide insight on why the program was deemed non-compliant. However, Counties still have the option to appeal to the Commonwealth Court if they feel aggrieved.

The specific appeals filed to date include:

- **Bucks County:**

- Program No. 13 (Drug Court Probation Officer): \$200,000.00
- Program No. 17 (24/7 Crisis Stabilization Unit): \$900,000.00
- **Chester County:**
 - Program No. 14 (Equestrian Recovery Supports): \$14,074.43
- **Dauphin County:**
 - Program No. 3 (ReNew): \$75,000.00
- **Erie County:**
 - Program No. 9 (OUD Library Collections): \$22,000.00
 - Program No. 11 (Certified Recovery Specialist Services): \$150,000.00
- **Philadelphia:**
 - Program No. 9(a) through (3) (Kensington Resident Support): \$7,500,000.00
- **Somerset County:**
 - Program No. 2 (Movement Outdoors): \$30,000.00

Chair Tom VanKirk reported that approximately \$8.9 million in appeals were submitted, primarily from two programs in Bucks County and Philadelphia. The Dispute Resolution Committee is set to address these appeals, starting with Somerset County's on September 5, 2024. Other appeals must be scheduled by October 9, 2024, with each receiving 30 minutes for discussion. Philadelphia County's appeal will have 45 minutes due to its complexity, although they opted not to appeal each sub-program separately.

Tumar Alexander expressed uncertainty about whether the Trust informed Philadelphia County that it should appeal separately and requested consideration for a full hour for their presentation. Chair Tom VanKirk noted that Philadelphia was informed that if they did not appeal each sub-program separately, they could not guarantee separate time slots. For now, Philadelphia's presentation remains at 45 minutes. Chair Tom VanKirk also stated that he would later discuss the possibility of extending Philadelphia's time to one hour with the Dispute Resolution Committee.

Secretary Latika Davis-Jones inquired how Trustees not on the Dispute Resolution Committee would be informed of the appeal outcomes. Chair Tom VanKirk confirmed that the results would be communicated to all Trustees via email after the decisions are made.

Adjustment of Working Group Members for September 15, 2024, Reports

Chair Tom VanKirk addressed the restructuring of the Working Groups, announcing that Representative Jim Struzzi has replaced Representative Jim Gregory on the Board of Trustees. He

also stated that the changes are designed to prevent county commissioners from judging programs from their own counties, ensuring fairness in the review process.

As a result, Tumar Alexander will move from Working Group 1, which reviews Philadelphia County, to Working Group 3. Erin Dalton is now the leader of Working Group 2, leading to Allegheny County's relocation to Working Group 3. Chair VanKirk stated that the new assignments will be posted on the Trust's website.

Resolution authorizing filing of Second Annual Report with the Commonwealth Court

Chair Tom VanKirk reported that the Trust is required to submit an annual report to the Commonwealth Court detailing its activities. Last year's reporting period was from July 1, 2022, through June 30, 2023; thus, the report to be filed will cover July 1, 2023, through June 30, 2024.

Chair Tom VanKirk stated that Trust's counsel has prepared a draft of the second annual report, which was circulated to the Trustees before the meeting. If approved, the intention is to file the report with the Commonwealth Court in September. Chair Tom VanKirk emphasized the importance of providing the report before the court considers the Wave II settlement motions to ensure they have a complete update on the Trust's activities. Once approved, the report will be made public and posted on the Trust's website. Chair Tom VanKirk then presented the following resolution for approval:

RESOLVED, that, the Board of Trustees hereby authorizes Buchanan Ingersoll & Rooney, as counsel for the Trust, to file the Second Annual Report with the Commonwealth Court of Pennsylvania in a form substantially similar to the draft included in the materials for this meeting.

Commissioner Robert Postal made a motion to approve the resolution as presented. Commissioner Gene DiGirolamo seconded the motion. With no further discussion, the motion was approved unanimously by Trustees in attendance.

New Business

Chair Tom VanKirk adjourned the meeting at 3:00 PM.