

Tennessee State-Subdivision Opioid Abatement Agreement – 2024 Amendments

In addition to being asked to join the new Kroger settlement, Tennessee local governments are also being asked to approve two amendments to the Tennessee State-Subdivision Opioid Abatement Agreement. We summarize these proposed amendments below. The settlement participation packet being sent to counties and qualifying municipalities by the national administrator will also include a form to approve the two amendments. This is the same process used to approve Amendments 1-3 last year.

The full text of the proposed amendments can be found on the following page.

Summary of Amendment 4:

This amendment applies the terms of the State-Subdivision Agreement to the new settlement with Kroger. This amendment ensures the structure and procedures that apply to prior opioid settlements with the three national pharmaceutical distributors, pharmacy chains, and manufacturers will be the same for the new settlement. For example, the formula for using overdose and other data to allocate funds among the counties would be the same for the new agreements as with the existing ones.

Summary of Amendment 5:

This amendment adds language in the State-Subdivision Agreement to directly address what happens when a settlement uses the subdivision allocation list in the Janssen Settlement's Exhibit G or another prior opioid agreement. The current language in Section III.E.2, which involves reallocating settlement funds from certain municipalities to their respective counties, could potentially be misinterpreted to apply when allocation lists from prior agreements are used in new settlements. (The Janssen Exhibit G subdivision allocation list is used in the Kroger agreement and in the five settlements approved last year.) This amendment clarifies that when a settlement adopts Janssen Exhibit G or another prior opioid allocation list, there is no need for additional adjustments based on Section III.E.2. (The amendment does not limit a municipality's ability to direct its payments to its county if it chooses to do so.)

Following Page: Text of Amendments

On the next page is the text of the amendments, which are set out as they should appear in the settlement packets from the national administrator.

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The Tennessee State-Subdivision Opioid Abatement Agreement, initially amended in 2023 with three amendments, is further amended as follows:

Amendment 4:

Pursuant to Section IV.A, this Agreement shall apply to the following Statewide Opioid Settlement Agreements, should it become effective:

- A. Kroger Settlement Agreement

Amendment 5:

To clarify that when a future settlement adopts the subdivision allocation in Exhibit G from the J&J/Janssen Settlement Agreement or another prior settlement there is no need to make additional adjustments pursuant to Section III.E.2, the following sentence shall apply as if it were added to the end of footnote 5 on page 4 of the agreement:

Additionally, should a future settlement adopt, as a default provision, the subdivision allocation list in Exhibit G from the J&J/Janssen Settlement Agreement or another prior opioid settlement agreement, then such list of Tennessee subdivisions shall be the default subdivision allocation list for that future settlement, and there is no need to make additional adjustments pursuant to Section III.E.2.

Note on adoption of amendments:

Amendment 4 shall be effective if approved as set forth in Section IV.B.2 of the Agreement. Amendment 5 shall be effective if approved as set forth in Section VII.D of the Agreement.