

**REGION 5 – WEST VIRGINIA FIRST  
FOUNDATION REGIONAL  
SELECTION MEETING**

HOSTED BY

KANAWHA COUNTY COMMISSION



# **REGION 5 – WEST VIRGINIA FIRST FOUNDATION REGIONAL SELECTION MEETING**

**Time:** Wednesday, July 12, 2023, 9:00 am

**Location:** Kanawha County Courthouse  
Courtroom #4 (Ceremonial Courtroom)  
409 Virginia Street East  
Charleston, WV 25301

## **AMENDED AGENDA**

- I. Call to Order.
- II. Roll Call of Voting Representatives Present.
- III. Establishment of a Quorum.
- IV. Introduction of Nominees for Election to the Board of the West Virginia First Foundation Received in Advance of the Meeting.
- V. Nominations for Election to the Board of the West Virginia First Foundation.
- VI. Nominees' Presentation to Voting Representatives.
- VII. Consideration of Nominees.
- VIII. Vote to Select Regional Board Member.
- IX. Discussion and Potential Vote Regarding Organization and Best Business Practices for the WV First Foundation Board, to

**WEST VIRGINIA FIRST  
MEMORANDUM OF UNDERSTANDING**

**General Principles**

Whereas, the people of the State of West Virginia, its Local Governments and communities, have been harmed by misfeasance, nonfeasance and malfeasance committed by certain entities within the Pharmaceutical Supply Chain; and,

Whereas, certain Local Governments, through their elected representatives and counsel, and the State, through its Attorney General, are separately engaged in litigation seeking to hold Pharmaceutical Supply Chain Participants accountable for the public harms caused by their misfeasance, nonfeasance, and malfeasance; and

Whereas, the State, through its Attorney General, and its Local Governments share a common desire to abate and alleviate the impacts of that misfeasance, nonfeasance, and malfeasance throughout the State of West Virginia;

**Terms**

The State and its Local Governments and communities, subject to the completion of formal documents effectuating the Parties' agreements, enter into this Memorandum of Understanding ("MOU") relating to the allocation and use of the proceeds of Settlements and Judgments described herein.

**A. Definitions**

As used in this Memorandum of Understanding:

1. "Approved Purpose(s)" shall mean evidence-based strategies, programming and/or services used to expand the availability of treatment for individuals affected by substance use disorders and/or addiction, to develop, promote and provide evidence-based substance use prevention strategies, to provide substance use avoidance and awareness education, to engage in enforcement to curtail the sale, distribution, promotion or use of opioids and other drugs, to decrease the oversupply of licit and illicit opioids and to support recovery from addiction to be performed by qualified providers as is further set forth in Exhibit A and Paragraph B(3) below.
2. "Court" is the West Virginia Mass Litigation Panel.
3. "Foundation Share" shall mean Opioid Funds allocated to the Foundation from any settlement or judgment.

12. "Settlement" shall mean the negotiated resolution by any of the Parties, of legal or equitable claims regarding opioids against a Pharmaceutical Supply Chain Participant when that resolution has been jointly entered into by the Parties. It does not include the Settlements the State and/or the West Virginia Attorney General entered into with any Pharmaceutical Supply Chain Participant prior to December 1, 2021. For the avoidance of doubt McKinsey is included. Settlement shall not include the claims of Cabell County and the City of Huntington, which were previously tried in the United States District Court for the Southern District of West Virginia or settlement of any claims asserted by the State and/or the West Virginia Attorney General against a Pharmaceutical Supply Chain Participant arising under federal or state antitrust laws, state criminal laws, or claims asserted pursuant to W. Va. Code, § 9-7-6(c) or for Medicaid reimbursement.
13. "State Share" shall mean Opioid Funds allocated to the State from any settlement or judgment.
14. "The Parties" shall mean the State and the Local Governments.
15. "Regions" shall mean the division of the Local Governments into six (6) separate areas as set forth in Exhibit B.
16. "The State" shall mean the State of West Virginia acting through its Attorney General.
17. "West Virginia Seed Fund" shall be funded as set forth in Paragraph B(2)(a). The funds are available for use in proper creation and documentation of the West Virginia Opioid Foundation and to fund their start-up work, and subsequent operation.

**B. Settlement and Judgment Proceeds**

1. The Parties shall organize a private, nonstock, nonprofit corporation for the purposes of receiving and distributing West Virginia Opioid Funds as set forth in Section C. of this MOU ("Opioid Foundation").
2. The Parties shall allocate all Opioid Funds as follows:
  - a. Subject to relevant approvals, the State shall pay into the West Virginia Seed Fund the \$10,000,000 received from McKinsey & Company as a result of the February 3, 2021, consent judgment with the State.
  - b. All other Opioid Funds covered by the agreement shall be allocated as set forth below:

8. Nothing in this MOU alters or changes the Parties' rights to pursue their own claims in litigation, subject to Paragraph E. Rather, the intent of this MOU is to join the Parties together regarding the distribution of the proceeds of settlements with or judgements against Pharmaceutical Supply Chain Participants for the benefit of all West Virginians and ensure that settlement monies are spent consistent with the Approved Purposes set forth in Exhibit A.
9. Any settlement, judgment and/or other remedy arising out of *City of Huntington v. AmerisourceBergen Drug Corporation, et al.* (Civil Action No. 3:17-01362) and/or *Cabell County Commission v. AmerisourceBergen Drug Corporation, et al.* (Civil Action No. 3:17-01665) pending in the United States District Court for the Southern District of West Virginia (Faber, J.) ("CT2") is specifically excluded from this MOU.

### **C. The Opioid Foundation**

1. The Parties shall create a private section 501(c)(3) Opioid Foundation ("Foundation") with a governing board ("Board"), a panel of experts ("Expert Panel"), and such other regional entities as may be necessary for the purpose of receiving and disbursing Opioid Funds and other purposes as set forth both herein and in the documents establishing the Foundation. The Foundation will allow Local Governments to take advantage of economies of scale and will partner with the State to increase revenue streams.
2. Each Region shall create their own governance structure, ensuring that all Local Governments have input and equitable representation regarding regional decisions including representation on the board and selection of projects to be funded from the Regional Share Calculation. The Expert Panel may consult with and may make recommendations to Regions on projects, services and/or expenses to be funded. Regions shall have the responsibility to make decisions that will allocate funds to projects, services and/or expenses that will equitably serve the needs of the entire Region.

#### **3. Board Composition**

The Board will consist of 11 members comprising representation as follows:

- a. To represent the interests of the State, five appointees of the governor, subject to confirmation by the Senate. The five appointees are intended to be limited to one from any given Region. If special circumstances are shown, this provision may be waived by a vote of four of the six Local Government members.
- b. To represent the interests of the Local Governments, six members, with one member selected from each Region. The Local Governments in each Region shall make the selection of the board member to represent their region.

11. Disbursement of Foundation Share by the Board

- a. The Foundation Board shall develop and approve procedures for the disbursement of Opioid Funds of the Foundation consistent with this Memorandum of Understanding.
- b. Funds for statewide programs, innovation, research, and education may also be expended by the Foundation from the Foundation Share, from the State Share (as directed by the State), or from sources other than Opioid Funds as provided below.
- c. The Foundation shall spend 20% of its annual budget in the six regions during the Foundation's first seven years of funding to be divided according to each Region's fixed Regional Share Calculation. After seven years, all regional spending will be as set forth in Section 11(d), below. Regions may, after consulting with the Expert Panel, expend the sums received under this Section 11(c) for any Approved Purposes.
- d. After the Regional Shares are distributed as set forth in Section 11(c), the Disbursement of Funds from the Foundation Share approved for disbursement by the Board for Approved Purposes shall be disbursed based on an evidence-based evaluation of need after consultation with the Expert Panel. The Parties do not intend to require any specific regional allocation of the Foundation Share other than those distributed pursuant to Paragraph 11(c).
- e. Regions may collaborate with other Regions to submit joint proposals.
- f. The proposed procedures shall set forth the role of the Expert Panel in advising the Regions and the Board concerning disbursements of Opioid Funds of the Foundation as set forth in this MOU.
- g. Within 90 days of the first receipt of any Opioid Funds and annually thereafter, the Board, after receiving counsel from its investment advisors and Expert Panel, shall determine the amount and timing of Foundation funds to be distributed annually. In making this determination, the Board shall consider: (a) Pending requests for Opioid Funds from communities, entities, or regions; (b) the total Opioid Funds available; (c) the timing of anticipated receipts of future Opioid Funds; (d) non-Opioid funds received by the Foundation; (e) investment income; and (f) long-term financial viability of the Foundation. The Foundation may disburse its principal and interest with the aim towards an efficient, expeditious abatement of the Opioid crisis considering long term and short-term strategies.

12. The Foundation, Expert Panel, and any other entities under the supervision of the Foundation, including the Regions, shall operate in a transparent manner. Meetings

consultation and coordination with Local Governments subject to Court approval.

- b. The Distributor Claims are to be coordinated by Co-Lead Counsel Paul Farrell, Jr. and Robert Fitzsimmons. The Co-Leads shall retain the authority over resolution of those claims after consultation and coordination with Local Governments and their counsel and the Attorney General and his designated counsel.

2. If there is any resolution of any claim before the Court, it will be announced and presented to the Court jointly by the Attorney General and the Local Governments for Approval.

#### **F. Amendments**

The Parties agree to make such amendments as necessary to implement the general principles of this MOU.

## EXHIBIT A

### SCHEDULE A - CORE STRATEGIES

The Parties shall choose from among the abatement strategies listed in Schedule B. However, priority shall be given to the following core abatement strategies ("**Core Strategies**").<sup>1</sup>

#### **A. NALOXONE OR OTHER FDA-APPROVED DRUG TO REVERSE OPIOID OVERDOSES**

1. Expand training for first responders, schools, community support groups and families; and
2. Increase distribution to individuals who are uninsured or whose insurance does not cover the needed services.

#### **B. MEDICATION-ASSISTED TREATMENT ("MAT") DISTRIBUTION AND OTHER OPIOID-RELATED TREATMENT**

1. Increase distribution of MAT to individuals who are uninsured or whose insurance does not cover the needed service;
2. Provide education to school-based and youth-focused programs that discourage or prevent misuse;
3. Provide MAT education and awareness training to healthcare providers, EMTs, law enforcement, and other first responders; and
4. Treatment and Recovery Support Services such as residential and inpatient treatment, intensive outpatient treatment, outpatient therapy or counseling, and recovery housing that allow or integrate medication and with other support services.

#### **C. PREGNANT & POSTPARTUM WOMEN**

1. Expand Screening, Brief Intervention, and Referral to Treatment ("SBIRT") services to non-Medicaid eligible or uninsured pregnant women;
2. Expand comprehensive evidence-based treatment and recovery services, including MAT, for women and co-occurring Opioid Use Disorder ("OUD") and other substance Use Disorder ("SUD")/Mental Health disorders for uninsured individuals for up to 12 months postpartum; and

---

As used in this Schedule A, words like "expand," "fund," "provide" or the like shall not indicate a preference for new or existing programs. Priorities will be established by the Opioid Abatement Foundation.



3. Funding for medical provider education and outreach regarding best prescribing practices for opioids consistent with the 2016 CDC guidelines, including providers at hospitals (academic detailing);
4. Funding for community drug disposal programs; and
5. Funding and training for first responders to participate in pre-arrest diversion programs, post-overdose response teams, or similar strategies that connect at-risk individuals to behavioral health services and supports.

**H. EVIDENCE-BASED DATA COLLECTION AND RESEARCH ANALYZING THE EFFECTIVENESS OF THE ABATEMENT STRATEGIES WITHIN THE STATE.**

**I. LAW ENFORCEMENT**

1. Funding for law enforcement efforts to curtail the sale, distribution, promotion or use of opioids and other drugs to reduce the oversupply of licit and illicit opioids, including regional jail fees.

**J. RESEARCH**

Research to ameliorate the opioid epidemic and to identify new tools to reduce and address opioid addiction. Holistically seek to address the problem from a supply, demand, and educational perspective. Ensure tools exist to provide law enforcement with appropriate enforcement to address needs.

specialists, including telementoring to assist community-based providers in rural or underserved areas.

9. Support workforce development for addiction professionals who work with persons with OUD and any co-occurring SUD/MH conditions.
10. Fellowships for addiction medicine specialists for direct patient care, instructors, and clinical research for treatments.

Scholarships and supports for behavioral health practitioners or workers involved in addressing OUD and any co-occurring SLTD or mental health conditions, including but not limited to training, scholarships, fellowships, loan repayment programs, or other incentives for providers to work in rural or underserved areas.

11. Provide funding and training for clinicians to obtain a waiver under the federal Drug Addiction Treatment Act of 2000 (DATA 2000) to prescribe MAT for OUD, and provide technical assistance and professional support to clinicians who have obtained a DATA 2000 waiver.
12. Dissemination of web-based training curricula, such as the American Academy of Addiction Psychiatry's Provider Clinical Support Service-Opioids web-based training curriculum and motivational interviewing.
13. Development and dissemination of new curricula, such as the American Academy of Addiction Psychiatry's Provider Clinical Support Service for Medication-Assisted Treatment.

## **B. SUPPORT PEOPLE IN TREATMENT AND RECOVERY**

Support people in recovery from OUD and any co-occurring SUD/MH conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Provide comprehensive wrap-around services to individuals with OUD and any co-occurring SUD/MH conditions, including housing, transportation, education, job placement, job training, or childcare.
2. Provide the full continuum of care of treatment and recovery services for OUD and any co-occurring SUD/MH conditions, including supportive housing, peer support services and counseling, case management, and connections to community-based services.
3. Provide counseling, peer-support, recovery case management and residential treatment with access to medications for those who need it to persons with OUD and any co-occurring SUD/MH conditions.

**C. CONNECT PEOPLE WHO NEED HELP TO THE HELP THEY NEED**  
**(CONNECTIONS TO CARE)**

Provide connections to care for people who have - or are at risk of developing - OUD and any co-occurring SUD/MH conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Ensure that health care providers are screening for OUD and other risk factors and know how to appropriately counsel and treat (or refer if necessary) a patient for OLTN treatment.
2. Fund Screening, Brief Intervention and Referral to Treatment (SBIRT) programs to reduce the transition from use to disorders, including SBIRT services to pregnant women who are uninsured or not eligible for Medicaid.
3. Provide training and long-term implementation of SBIRT in key systems (health, schools, colleges, criminal justice, and probation), with a focus on youth and young adults when transition from misuse to opioid disorder is common.
4. Purchase automated versions of SBIRT and support ongoing costs of the technology.
5. Expand services such as on-call teams to begin MAT in hospital emergency departments.
6. Training for emergency room personnel treating opioid overdose patients on post-discharge planning, including community referrals for MAT, recovery case management or support services.
7. Support hospital programs that transition persons with OUD and any co-occurring SUD/MH conditions, or persons who have experienced an opioid overdose, into clinically appropriate follow-up care through a bridge clinic or similar approach.
8. Support crisis stabilization centers that serve as an alternative to hospital emergency departments for persons with OUD and any co-occurring SUD/MH conditions or persons that have experienced an opioid overdose.
9. Support the work of Emergency Medical Systems, including peer support specialists, to connect individuals to treatment or other appropriate services following an opioid overdose or other opioid-related adverse event.
10. Provide funding for peer support specialists or recovery coaches in emergency departments, detox facilities, recovery centers, recovery housing, or similar settings; offer services, supports, or connections to care to persons with OUD and any co-occurring SUD/MH conditions or to persons who have experienced an opioid overdose.

- f. Co-responder and/or alternative responder models to address OUD-related 911 calls with greater SUD expertise.
2. Support pre-trial services that connect individuals with OUD and any co-occurring SUD/MH conditions to evidence-informed treatment, including MAT, and related services.
3. Support treatment and recovery courts that provide evidence-based options for persons with OLTD and any co-occurring SUD/MH conditions.
4. Provide evidence-informed treatment, including MAT, recovery support, or other appropriate services to individuals with OUD and any co-occurring SUD/MH conditions who are incarcerated in jail or prison.
5. Provide evidence-informed treatment, including MAT, recovery support, or other appropriate services to individuals with OUD and any co-occurring SUD/MH conditions who are leaving jail or prison, have recently left jail or prison, are on probation or parole, are under community corrections supervision, or are in re-entry programs or facilities.
6. Support critical time interventions (CTI), particularly for individuals living with dual-diagnosis OUD/serious mental illness, and services for individuals who face immediate risks and service needs and risks upon release from correctional settings.
7. Provide training on best practices for addressing the needs of criminal-justice-involved persons with OUD and any co-occurring SUD/MH conditions to law enforcement, correctional, or judicial personnel or to providers of treatment, recovery, case management, or other services offered in connection with any of the strategies described in this section.

**E. ADDRESS THE NEEDS OF PREGNANT OR PARENTING WOMEN AND THEIR FAMILIES, INCLUDING BABIES WITH NEONATAL ABSTINENCE SYNDROME**

Address the needs of pregnant or parenting women with OUD and any co-occurring SUD/MH conditions, and the needs of their families, including babies with neonatal abstinence syndrome (NAS), through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Support evidence-based or evidence-informed treatment, including MAT, recovery services and supports, and prevention services for pregnant women — or women who could become pregnant — who have OUD and any co-occurring SUD/MH conditions, and other measures to educate and provide support to families affected by Neonatal Abstinence Syndrome.

from the U.S. Centers for Disease Control and Prevention, or other recognized Best Practice guidelines, including providers at hospitals (academic detailing).

2. Training for health care providers regarding safe and responsible opioid prescribing, dosing, and tapering patients off opioids.
3. Continuing Medical Education (CME) on appropriate prescribing of opioids.
4. Support for non-opioid pain treatment alternatives, including training providers to offer or refer to multi-modal, evidence-informed treatment of pain.
5. Support enhancements or improvements to Prescription Drug Monitoring Programs (PDMPs), including but not limited to improvements that:
  - a. Increase the number of prescribers using PDMPs;
  - b. Improve point-of-care decision-making by increasing the quantity, quality, or format of data available to prescribers using PDMPs, by improving the interface that prescribers use to access PDMP data, or both; or
  - c. Enable states to use PDMP data in support of surveillance or intervention strategies, including MAT referrals and follow-up for individuals identified within PDMP data as likely to experience OUD in a manner that complies with all relevant privacy and security laws and rules.
6. Ensuring PDMPs incorporate available overdose/naloxone deployment data, including the United States Department of Transportation's Emergency Medical Technician overdose database in a manner that complies with all relevant privacy and security laws and rules.
7. Increase electronic prescribing to prevent diversion or forgery.
8. Educate Dispensers on appropriate opioid dispensing.

**G. PREVENT MISUSE OF OPIOIDS**

Support efforts to discourage or prevent misuse of opioids through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Fund media campaigns to prevent opioid misuse.
2. Corrective advertising or affirmative public education campaigns based on evidence.
3. Public education relating to drug disposal.

2. Public health entities providing free naloxone to anyone in the community.
3. Training and education regarding naloxone and other drugs that treat overdoses for first responders, overdose patients, patients taking opioids, families, schools, community support groups, and other members of the general public.
4. Enable school nurses and other school staff to respond to opioid overdoses, and provide them with naloxone, training, and support.
5. Expand, improve, or develop data tracking software and applications for overdoses/naloxone revivals.
6. Public education relating to emergency responses to overdoses.
7. Public education relating to immunity and Good Samaritan laws.
8. Educate first responders regarding the existence and operation of immunity and Good Samaritan laws.
9. Expand access to testing and treatment for infectious diseases such as HIV and Hepatitis C resulting from intravenous opioid use.
10. Support mobile units that offer or provide referrals to treatment, recovery supports, health care, or other appropriate services to persons that use opioids or persons with OUD and any co-occurring SUD/MH conditions.
11. Support screening for fentanyl in routine clinical toxicology testing.

### PART THREE: OTHER STRATEGIES

#### **I. FIRST RESPONDERS**

In addition to items in Section C, D and H relating to first responders, support the following:

1. Educate law enforcement or other first responders regarding appropriate practices and precautions when dealing with fentanyl or other drugs.
2. Provision of wellness and support services for first responders and others who experience secondary trauma associated with opioid-related emergency events.

#### **J. LEADERSHIP, PLANNING AND COORDINATION**

Support efforts to provide leadership, planning, coordination, facilitations, training and technical assistance to abate the opioid epidemic through activities, programs, or strategies that may include, but are not limited to, the following:

1. Monitoring, surveillance, data collection and evaluation of programs and strategies described in this opioid abatement strategy list.
2. Research non-opioid treatment of chronic pain.
3. Research on improved service delivery for modalities such as SBIRT that demonstrate promising but mixed results in populations vulnerable to opioid use disorders.
4. Research on novel prevention efforts such as the provision of fentanyl test strips.
5. Research on innovative supply-side enforcement efforts such as improved detection of mail-based delivery of synthetic opioids.
6. Expanded research on swift/certain/fair models to reduce and deter opioid misuse within criminal justice populations that build upon promising approaches used to address other substances (e.g. Hawaii HOPE and Dakota 24/7).
7. Epidemiological surveillance of OUD-related behaviors in critical populations including individuals entering the criminal justice system, including but not limited to approaches modeled on the Arrestee Drug Abuse Monitoring (ADAM) system.
8. Qualitative and quantitative research regarding public health risks within illicit drug markets, including surveys of market participants who sell or distribute illicit opioids.
9. Geospatial analysis of access barriers to MAT and their association with treatment engagement and treatment outcomes.

**M. LAW ENFORCEMENT**

Ensure appropriate resources for law enforcement to engage in enforcement and possess adequate equipment, tools, and manpower to address complexity of the opioid problem.

**Exhibit C (Allocations to Subdivisions)**

**Allocation to West Virginia Counties and Municipalities (NOT Including Cabell County and Huntington)**

Government Name	County	WV Share (%)
ADDISON TOWN	WEBSTER	0.0191%
ALBRIGHT TOWN	PRESTON	0.0001%
ALDERSON TOWN	GREENBRIER/MONROE	0.0037%
ANAWALT TOWN	MCDOWELL	0.0008%
ANMOORE TOWN	HARRISON	0.0083%
ANSTED TOWN	FAYETTE	0.0024%
ATHENS TOWN	MERCER	0.0003%
AUBURN TOWN	RITCHIE	0.0001%
BANCROFT TOWN	PUTNAM	0.0002%
BARBOUR COUNTY	BARBOUR	0.3900%
BARBOURSVILLE VILLAGE	CABELL	0.4372%
BARRACKVILLE TOWN	MARION	0.0016%
BATH (BERKELEY SPRINGS) TOWN	MORGAN	0.0068%
BAYARD TOWN	GRANT	0.0000%
BECKLEY CITY	RALEIGH	3.7259%
BEECH BOTTOM VILLAGE	BROOKE	0.0003%
BELINGTON TOWN	BARBOUR	0.0355%
BELLE TOWN	KANAWHA	0.0411%
BELMONT CITY	PLEASANTS	0.0002%
BENWOOD CITY	MARSHALL	0.0076%
BERKELEY COUNTY	BERKELEY	3.5839%
BETHANY TOWN	BROOKE	0.0005%
BETHLEHEM VILLAGE	OHIO	0.0020%
BEVERLY TOWN	RANDOLPH	0.0008%
BLACKSVILLE TOWN	MONONGALIA	0.0003%
BLUEFIELD CITY	MERCER	0.1794%
BOLIVAR TOWN	JEFFERSON	0.0058%
BOONE COUNTY	BOONE	3.1744%
BRADSHAW TOWN	MCDOWELL	0.0012%
BRAMWELL TOWN	MERCER	0.0003%
BRANDONVILLE TOWN	PRESTON	0.0001%
BRAXTON COUNTY	BRAXTON	0.5244%
BRIDGEPORT CITY	HARRISON	0.0761%
BROOKE COUNTY	BROOKE	1.0924%
BRUCETON MILLS TOWN	PRESTON	0.0002%
BUCKHANNON CITY	UPSHUR	0.1667%
BUFFALO TOWN	PUTNAM	0.0009%
BURNSVILLE TOWN	BRAXTON	0.0029%
CABELL COUNTY	CABELL	0.0000%





Exhibit C (Allocations to Subdivisions)

Government Name	County	WV Share (%)
LEON TOWN	MASON	0.0000%
LESTER TOWN	RALEIGH	0.0310%
LEWIS COUNTY	LEWIS	0.4053%
LEWISBURG CITY	GREENBRIER	0.3917%
LINCOLN COUNTY	LINCOLN	1.3818%
LOGAN CITY	LOGAN	0.4429%
LOGAN COUNTY	LOGAN	3.7315%
LOST CREEK TOWN	HARRISON	0.0001%
LUMBERPORT TOWN	HARRISON	0.0027%
MABSCOTT TOWN	RALEIGH	0.0512%
MADISON CITY	BOONE	0.0578%
MAN TOWN	LOGAN	0.0025%
MANNINGTON CITY	MARION	0.0030%
MARION COUNTY	MARION	1.0540%
MARLINTON TOWN	POCAHONTAS	0.0009%
MARMET CITY	KANAWHA	0.0061%
MARSHALL COUNTY	MARSHALL	0.8648%
MARTINSBURG CITY	BERKELEY	3.5343%
MASON COUNTY	MASON	1.3496%
MASON TOWN	MASON	0.0028%
MASONTOWN TOWN	PRESTON	0.0008%
MATEWAN TOWN	MINGO	0.0718%
MATOAKA TOWN	MERCER	0.0002%
MCDOWELL COUNTY	MCDOWELL	3.2036%
MCMECHEN CITY	MARSHALL	0.0079%
MEADOW BRIDGE TOWN	FAYETTE	0.0005%
MERCER COUNTY	MERCER	0.3738%
MIDDLEBOURNE TOWN	TYLER	0.0003%
MILL CREEK TOWN	RANDOLPH	0.0000%
MILTON TOWN	CABELL	0.1485%
MINERAL COUNTY	MINERAL	0.8526%
MINGO COUNTY	MINGO	2.9452%
MITCHELL HEIGHTS TOWN	LOGAN	0.0010%
MONONGAH TOWN	MARION	0.0028%
MONONGALIA COUNTY	MONONGALIA	1.4987%
MONROE COUNTY	MONROE	0.5766%
MONTGOMERY CITY	FAYETTE/KANAWHA	0.1004%
MONTROSE TOWN	RANDOLPH	0.0001%
MOOREFIELD TOWN	HARDY	0.0092%
MORGAN COUNTY	MORGAN	0.7095%
MORGANTOWN CITY	MONONGALIA	0.1330%
MOUNDSVILLE CITY	MARSHALL	0.3175%
MOUNT HOPE CITY	FAYETTE	0.0918%
MULLENS CITY	WYOMING	0.3675%
NEW CUMBERLAND CITY	HANCOCK	0.0034%

**Exhibit C (Allocations to Subdivisions)**

Government Name	County	WV Share (%)
RIDGELEY TOWN	MINERAL	0.0027%
RIPLEY CITY	JACKSON	0.0921%
RITCHIE COUNTY	RITCHIE	0.2018%
RIVESVILLE TOWN	MARION	0.0010%
ROANE COUNTY	ROANE	0.5653%
ROMNEY CITY	HAMPSHIRE	0.0614%
RONCEVERTE CITY	GREENBRIER	0.0960%
ROWLESBURG TOWN	PRESTON	0.0024%
RUPERT TOWN	GREENBRIER	0.0073%
SALEM CITY	HARRISON	0.0042%
SAND FORK TOWN	GILMER	0.0003%
SHEPHERDSTOWN TOWN	JEFFERSON	0.0088%
SHINNSTON CITY	HARRISON	0.1066%
SISTERSVILLE CITY	TYLER	0.2085%
SMITHERS CITY	FAYETTE/KANAWHA	0.0383%
SMITHFIELD TOWN	WETZEL	0.0001%
SOPHIA TOWN	RALEIGH	0.0409%
SOUTH CHARLESTON CITY	KANAWHA	0.9750%
SPENCER CITY	ROANE	0.0646%
ST. ALBANS CITY	KANAWHA	0.4843%
ST. MARYS CITY	PLEASANTS	0.0623%
STAR CITY TOWN	MONONGALIA	0.0414%
STONEWOOD CITY	HARRISON	0.0478%
SUMMERS COUNTY	SUMMERS	0.3559%
SUMMERSVILLE CITY	NICHOLAS	1.6957%
SUTTON TOWN	BRAXTON	0.0210%
SYLVESTER TOWN	BOONE	0.0003%
TAYLOR COUNTY	TAYLOR	0.0431%
TERRA ALTA TOWN	PRESTON	0.0015%
THOMAS CITY	TUCKER	0.0002%
THURMOND TOWN	FAYETTE	0.0000%
TRIADELPHIA TOWN	OHIO	0.0003%
TUCKER COUNTY	TUCKER	0.1255%
TUNNELTON TOWN	PRESTON	0.0006%
TYLER COUNTY	TYLER	0.0204%
UNION TOWN	MONROE	0.0006%
UPSHUR COUNTY	UPSHUR	0.5108%
VALLEY GROVE VILLAGE	OHIO	0.0001%
VIENNA CITY	WOOD	0.2838%
WAR CITY	MCDOWELL	0.0020%
WARDENSVILLE TOWN	HARDY	0.0013%
WAYNE COUNTY	WAYNE	2.3586%
WAYNE TOWN	WAYNE	0.0356%
WEBSTER COUNTY	WEBSTER	0.3765%
WEIRTON CITY	HANCOCK/BROOKE	1.3728%

**Exhibit C (Allocations to Subdivisions)**

**Allocation to West Virginia Counties and Municipalities (Including Cabell County and Huntington)**

Government Name	County	WV Share (%)
ADDISON TOWN	WEBSTER	0.0174%
ALBRIGHT TOWN	PRESTON	0.0001%
ALDERSON TOWN	GREENBRIER/MONROE	0.0034%
ANAWALT TOWN	MCDOWELL	0.0007%
ANMOORE TOWN	HARRISON	0.0076%
ANSTED TOWN	FAYETTE	0.0022%
ATHENS TOWN	MERCER	0.0003%
AUBURN TOWN	RITCHIE	0.0001%
BANCROFT TOWN	PUTNAM	0.0001%
BARBOUR COUNTY	BARBOUR	0.3541%
BARBOURSVILLE VILLAGE	CABELL	0.3969%
BARRACKVILLE TOWN	MARION	0.0015%
BATH (BERKELEY SPRINGS) TOWN	MORGAN	0.0062%
BAYARD TOWN	GRANT	0.0000%
BECKLEY CITY	RALEIGH	3.3824%
BEECH BOTTOM VILLAGE	BROOKE	0.0003%
BELINGTON TOWN	BARBOUR	0.0322%
BELLE TOWN	KANAWHA	0.0373%
BELMONT CITY	PLEASANTS	0.0002%
BENWOOD CITY	MARSHALL	0.0070%
BERKELEY COUNTY	BERKELEY	3.2534%
BETHANY TOWN	BROOKE	0.0005%
BETHLEHEM VILLAGE	OHIO	0.0018%
BEVERLY TOWN	RANDOLPH	0.0008%
BLACKSVILLE TOWN	MONONGALIA	0.0002%
BLUEFIELD CITY	MERCER	0.1629%
BOLIVAR TOWN	JEFFERSON	0.0053%
BOONE COUNTY	BOONE	2.8817%
BRADSHAW TOWN	MCDOWELL	0.0011%
BRAMWELL TOWN	MERCER	0.0003%
BRANDONVILLE TOWN	PRESTON	0.0001%
BRAXTON COUNTY	BRAXTON	0.4761%
BRIDGEPORT CITY	HARRISON	0.0694%
BROOKE COUNTY	BROOKE	0.9916%
BRUCETON MILLS TOWN	PRESTON	0.0002%
BUCKHANNON CITY	UPSHUR	0.1513%
BUFFALO TOWN	PUTNAM	0.0008%
BURNSVILLE TOWN	BRAXTON	0.0026%

**Exhibit C (Allocations to Subdivisions)**

Government Name	County	WV Share (%)
FRIENDLY TOWN	TYLER	0.0000%
GARY CITY	MCDOWELL	0.0011%
GASSAWAY TOWN	BRAXTON	0.0022%
GAULEY BRIDGE TOWN	FAYETTE	0.0482%
GILBERT TOWN	MINGO	0.0661%
GILMER COUNTY	GILMER	0.1742%
GLASGOW TOWN	KANAWHA	0.0015%
GLEN DALE CITY	MARSHALL	0.0045%
GLENVILLE TOWN	GILMER	0.0153%
GRAFTON CITY	TAYLOR	0.4212%
GRANT COUNTY	GRANT	0.3081%
GRANT TOWN TOWN	MARION	0.0099%
GRANTSVILLE TOWN	CALHOUN	0.0011%
GRANVILLE TOWN	MONONGALIA	0.1497%
GREENBRIER COUNTY	GREENBRIER	1.3059%
HAMBLETON TOWN	TUCKER	0.0001%
HAMLIN TOWN	LINCOLN	0.0638%
HAMPSHIRE COUNTY	HAMPSHIRE	0.0793%
HANCOCK COUNTY	HANCOCK	1.4621%
HANDLEY TOWN	KANAWHA	0.0006%
HARDY COUNTY	HARDY	0.2555%
HARMAN TOWN	RANDOLPH	0.0002%
HARPERS FERRY TOWN	JEFFERSON	0.0086%
HARRISON COUNTY	HARRISON	1.2029%
HARRISVILLE TOWN	RITCHIE	0.0041%
HARTFORD CITY TOWN	MASON	0.0001%
HEDGESVILLE TOWN	BERKELEY	0.0001%
HENDERSON TOWN	MASON	0.0002%
HENDRICKS TOWN	TUCKER	0.0001%
HILLSBORO TOWN	POCAHONTAS	0.0001%
HINTON CITY	SUMMERS	0.3727%
HUNDRED TOWN	WETZEL	0.0001%
HUNTINGTON CITY	CABELL/WAYNE	5.9777%
HURRICANE CITY	PUTNAM	0.1943%
HUTTONSVILLE TOWN	RANDOLPH	0.0000%
IAEGER TOWN	MCDOWELL	0.0005%
JACKSON COUNTY	JACKSON	0.7552%
JANE LEW TOWN	LEWIS	0.0009%
JEFFERSON COUNTY	JEFFERSON	1.5882%
JUNIOR TOWN	BARBOUR	0.0032%
KANAWHA COUNTY	KANAWHA	3.2694%
KENOVA CITY	WAYNE	0.1874%
KERMIT TOWN	MINGO	0.0267%
KEYSER CITY	MINERAL	0.0072%



IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

IN RE: OPIOID LITIGATION

Civil Action No. 19-C-9000

THIS DOCUMENT APPLIES TO ALL CASES

**ORDER ADOPTING THE WEST VIRGINIA FIRST  
MEMORANDUM OF UNDERSTANDING**

Pending before the Mass Litigation Panel is the County and City Plaintiffs' *Motion to Adopt the West Virginia First Memorandum of Understanding* (the "Motion") (Transaction ID 68760098) requesting the Panel to formally adopt the *West Virginia First Memorandum of Understanding* ("WVMOU").

Upon consideration of the Motion, the Court **FINDS** that the West Virginia Memorandum of Understanding ("WVMOU") has been agreed to and executed by Plaintiffs, this Court has previously approved the establishment of a Qualified Settlement Fund in accordance with the WVMOU, the WVMOU sets forth a comprehensive framework for the allocation and distribution of funds for West Virginia opioid claims—the receipt of which has begun, and judicial economy will be served by the Panel's formal adoption of the WVMOU.

It is accordingly **ORDERED** that the West Virginia First Memorandum of Understanding, attached as Exhibit A to the Motion, is hereby adopted and incorporated in its entirety, and shall govern the allocation, distribution, and payment of all recoveries in connection with the claims asserted by the State of West Virginia and any West Virginia County and City in the above consolidated civil action as is set forth in the WVMOU.

It is further **ORDERED** that the provisions of the WVMOU be implemented and the Parties are directed to proceed with steps necessary for that implementation, including, but not limited to the creation of the West Virginia First Foundation.

Approved by:

/s/ Robert P. Fitzsimmons

Robert P. Fitzsimmons (WV Bar #1212)  
Fitzsimmons Law Firm PLLC  
1609 Warwood Avenue  
Wheeling, WV 26003  
Telephone: (304) 277-1700  
Email: [bob@fitzsimmonsfirm.com](mailto:bob@fitzsimmonsfirm.com)

/s/ Paul T. Farrell, Jr.

Paul T. Farrell, Jr. (WV Bar #7443)  
Farrell & Fuller, LLC  
1311 Ponce de Leon Ave., Suite 202  
San Juan, Puerto Rico 00907  
Telephone: (304) 654-8281  
Email: [paul@farrellfuller.com](mailto:paul@farrellfuller.com)

*Co-Lead Counsel for County and City Plaintiffs*

FILED

MAY 18 2023

ARTICLES OF INCORPORATION  
OF  
WEST VIRGINIA FIRST FOUNDATION, INC.

IN THE OFFICE OF  
WV SECRETARY OF STATE

Pursuant to the provisions of West Virginia Code §§ 31E-2-202 and 31E-2-203, the undersigned Corporation hereby adopts the following Articles of Incorporation for such Corporation:

ARTICLE I  
Name

Article I: Name. The name of the Corporation is "West Virginia First Foundation, Inc."

Article II: Duration. The period of duration of the Corporation shall be perpetual.

Article III: Principal Office and Address. The address of the principal office of said Corporation shall be 3510 MacCorkle Ave SE, Charleston, West Virginia 25304. The e-mail address to which informational notices and reminders of annual filings may be sent is: John.Jenkins@schcpa.com.

Article IV: Agent. The name of the person to whom notice of process may be sent is John Jenkins, 3510 MacCorkle Ave SE, Charleston, WV 25304.

Article V: Non-Profit. The Corporation is organized as a non-profit under West Virginia Code § 31E-1-1 et seq., as amended, or any successor law. The Corporation shall not have the power or authority to issue capital stock or to make distributions.

Article VI: No Members. The Corporation shall have no members.

Article VII: Incorporator. The full name and address of the incorporator is John Jenkins, 3510 MacCorkle Ave SE, Charleston, WV 25304.

Article VIII: Purposes. The Corporation is organized and at all times hereafter shall be operated exclusively for charitable, scientific, and educational purposes within the meaning of § 501(c)(3) of the Internal Revenue Code of 1986, as amended (hereinafter referred to as the "Code," which shall include any subsequent corresponding Code of Federal tax law). More specifically, the purposes of the Corporation are as follows:

A. To promote the health and safety of West Virginians by implementing evidence-based strategies, programming and/or services used to (i) expand the availability of treatment for individuals affected by substance use disorders and/or addiction; (ii) develop, promote and provide evidence-based substance use prevention strategies; (iii) (iv) provide substance use avoidance and awareness education; (v) engage in enforcement to curtail the sale, distribution, promotion or use of opioids and other drugs; and (vi)

RECEIVED  
MAY 18 2023  
694317



Exhibit C (Allocations to Subdivisions)

Government Name	County	WV Share (%)
KEYSTONE CITY	MCDOWELL	0.0016%
KIMBALL TOWN	MCDOWELL	0.0019%
KINGWOOD CITY	PRESTON	0.0042%
LEON TOWN	MASON	0.0000%
LESTER TOWN	RALEIGH	0.0281%
LEWIS COUNTY	LEWIS	0.3679%
LEWISBURG CITY	GREENBRIER	0.3556%
LINCOLN COUNTY	LINCOLN	1.2544%
LOGAN CITY	LOGAN	0.4020%
LOGAN COUNTY	LOGAN	3.3874%
LOST CREEK TOWN	HARRISON	0.0000%
LUMBERPORT TOWN	HARRISON	0.0025%
MABSCOTT TOWN	RALEIGH	0.0465%
MADISON CITY	BOONE	0.0525%
MAN TOWN	LOGAN	0.0023%
MANNINGTON CITY	MARION	0.0028%
MARION COUNTY	MARION	0.9568%
MARLINTON TOWN	POCAHONTAS	0.0008%
MARMET CITY	KANAWHA	0.0055%
MARSHALL COUNTY	MARSHALL	0.7851%
MARTINSBURG CITY	BERKELEY	3.2084%
MASON COUNTY	MASON	1.2251%
MASON TOWN	MASON	0.0026%
MASONTOWN TOWN	PRESTON	0.0007%
MATEWAN TOWN	MINGO	0.0652%
MATOAKA TOWN	MERCER	0.0002%
MCDOWELL COUNTY	MCDOWELL	2.9082%
MCMECHEN CITY	MARSHALL	0.0072%
MEADOW BRIDGE TOWN	FAYETTE	0.0004%
MERCER COUNTY	MERCER	0.3393%
MIDDLEBOURNE TOWN	TYLER	0.0002%
MILL CREEK TOWN	RANDOLPH	0.0000%
MILTON TOWN	CABELL	0.1348%
MINERAL COUNTY	MINERAL	0.7740%
MINGO COUNTY	MINGO	2.6736%
MITCHELL HEIGHTS TOWN	LOGAN	0.0010%
MONONGAH TOWN	MARION	0.0026%
MONONGALIA COUNTY	MONONGALIA	1.3605%
MONROE COUNTY	MONROE	0.5234%
MONTGOMERY CITY	FAYETTE/KANAWHA	0.0912%
MONTROSE TOWN	RANDOLPH	0.0001%
MOOREFIELD TOWN	HARDY	0.0084%
MORGAN COUNTY	MORGAN	0.6441%
MORGANTOWN CITY	MONONGALIA	0.1213%

**Exhibit C (Allocations to Subdivisions)**

Government Name	County	WV Share (%)
RAVENSWOOD CITY	JACKSON	0.0870%
REEDSVILLE TOWN	PRESTON	0.0006%
REEDY TOWN	ROANE	0.0000%
RHODELL TOWN	RALEIGH	0.0013%
RICHWOOD CITY	NICHOLAS	0.0093%
RIDGELEY TOWN	MINERAL	0.0024%
RIPLEY CITY	JACKSON	0.0836%
RITCHIE COUNTY	RITCHIE	0.1832%
RIVESVILLE TOWN	MARION	0.0009%
ROANE COUNTY	ROANE	0.5132%
ROMNEY CITY	HAMPSHIRE	0.0557%
RONCEVERTE CITY	GREENBRIER	0.0871%
ROWLESBURG TOWN	PRESTON	0.0022%
RUPERT TOWN	GREENBRIER	0.0066%
SALEM CITY	HARRISON	0.0038%
SAND FORK TOWN	GILMER	0.0002%
SHEPHERDSTOWN TOWN	JEFFERSON	0.0080%
SHINNSTON CITY	HARRISON	0.0968%
SISTERSVILLE CITY	TYLER	0.1893%
SMITHERS CITY	FAYETTE/KANAWHA	0.0348%
SMITHFIELD TOWN	WETZEL	0.0001%
SOPHIA TOWN	RALEIGH	0.0371%
SOUTH CHARLESTON CITY	KANAWHA	0.8851%
SPENCER CITY	ROANE	0.0586%
ST. ALBANS CITY	KANAWHA	0.4397%
ST. MARYS CITY	PLEASANTS	0.0565%
STAR CITY TOWN	MONONGALIA	0.0376%
STONEWOOD CITY	HARRISON	0.0434%
SUMMERS COUNTY	SUMMERS	0.3231%
SUMMERSVILLE CITY	NICHOLAS	1.5393%
SUTTON TOWN	BRAXTON	0.0191%
SYLVESTER TOWN	BOONE	0.0003%
TAYLOR COUNTY	TAYLOR	0.0391%
TERRA ALTA TOWN	PRESTON	0.0014%
THOMAS CITY	TUCKER	0.0002%
THURMOND TOWN	FAYETTE	0.0000%
TRIADELPHIA TOWN	OHIO	0.0003%
TUCKER COUNTY	TUCKER	0.1140%
TUNNELTON TOWN	PRESTON	0.0005%
TYLER COUNTY	TYLER	0.0185%
UNION TOWN	MONROE	0.0006%
UPSHUR COUNTY	UPSHUR	0.4637%
VALLEY GROVE VILLAGE	OHIO	0.0001%
VIENNA CITY	WOOD	0.2577%

19 *seq.* of this code adopting and approving the memorandum of understanding and the abatement  
20 structure created in the memorandum of understanding, including, but not limited to, the creation  
21 of a private foundation for the purposes set forth in the memorandum of understanding.

22 "Region" means any of the six geographic regions established pursuant to the order and  
23 Exhibit B of the memorandum of understanding.

**§5-30-3. West Virginia First Foundation.**

1 A private foundation in keeping with the order, known as the West Virginia First  
2 Foundation, that qualifies under Internal Revenue Code Section 501(c)(3), and created by the  
3 parties to the memorandum of understanding is recognized. The foundation shall have a  
4 governing board, an expert panel, and other additional and regional entities necessary for the  
5 purpose of receiving and disbursing opioid funds and other purposes set forth in the order and the  
6 memorandum of understanding. The operation of the West Virginia First Foundation shall be  
7 governed by its articles of incorporation and any by-laws adopted consistent with the provisions of  
8 the memorandum of understanding and the order.

**§5-30-4. West Virginia First Foundation Board composition; executive director.**

1 (a) The governing board shall consist of 11 members representing:

2 (1) The interests of the State of West Virginia. The Governor shall appoint five members to  
3 the governing board with the advice and consent of the Senate. The Governor may not appoint  
4 more than one member from a region, unless authorized by a vote of four of the six governing  
5 board members selected by the regions; and

6 (2) The interests of local government. The local governments in each of the six regions  
7 shall make the selection of the governing board member to represent their region.

8 (b) The terms for governing board members shall be staggered three-year terms.  
9 Governing board members may be reappointed.

10 (c) Governing board members shall serve as fiduciaries of the West Virginia First  
11 Foundation separate and apart from any representational capacity of the entity approving the

Enr SB 674

- 10 the progress of the approved use strategies. The foundation shall publish a consolidated report
- 11 detailing annual financial expenditures within 15 days of the last day of the state fiscal year
- 12 covered by the report.

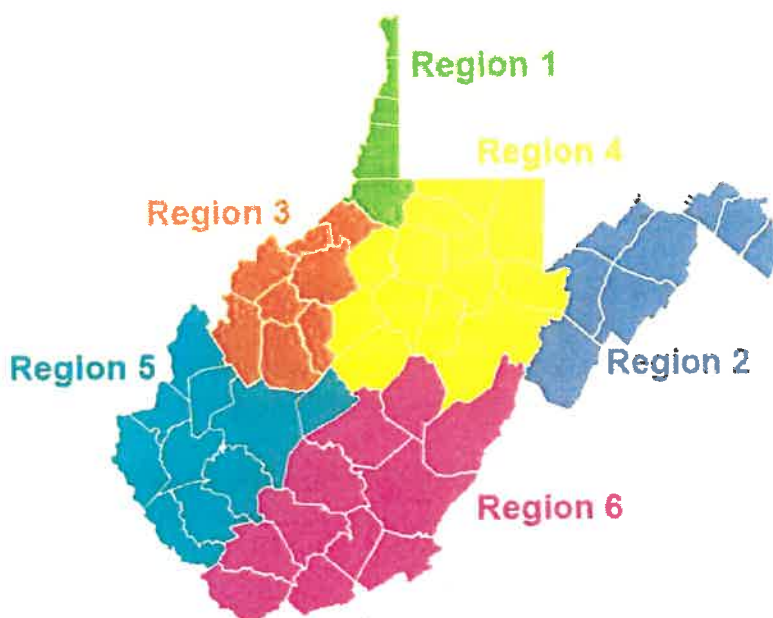
distribution of funds for the abatement of the opioid crisis. The West Virginia First Foundation was born out of the need for a coordinated, statewide opioid abatement plan and represents the first step in creating a robust long-term public health infrastructure designed to prevent the reoccurrence of the opioid epidemic.

The Articles of Incorporation for the Foundation were filed with the West Virginia Secretary of State on May 18, 2023. **The initial Board of Directors must be elected within sixty (60) days of the chartering of the Foundation, July 17, 2023.**

➤ **Regional Structure**

The Foundation consists of six abatement Regions, displayed in the map below. These regions were initially developed by the federal Substance Abuse and Mental Health Services Administration (“SAMHSA”) and later adopted by West Virginia’s Behavioral Health department.

The opioid epidemic is multi-faceted and does not impact every local government in the same way. The regional structure was developed to help local governments collaborate to address concerns particular to their regions and to promote efficient use of opioid abatement funds between neighboring communities.



➤ **Regional Director Selection**

The Foundation will be governed by an eleven-member Board of Directors. Of the eleven initial directors, five Directors will be appointed by the Governor, with no more than one person from any given Region. The remaining six Directors represent the regions of the State, with one director selected to represent each Region.

The selection process for the initial Regional Directors is outlined in the Articles of Incorporation and is as follows:

- After the votes are counted, John Jenkins or his designee will report the totals and certify the results to the Governor and the Attorney General within one week.

Any questions can be directed to Ann Haight, Abby Cunningham, or Vaughn Sizemore in our Consumer Protection Division, 304-558-8986.

*Patrick Momm*

**Proposed Agenda for Regional Selection Meeting**

- I. Call to Order
- II. Roll call of voting representatives present.
- III. Establishment of a quorum
- IV. Introduction of nominees for election to the Board of the West Virginia First Foundation received in advance of the meeting.
- V. Nominations for election to the Board of the West Virginia First Foundation.
- VI. Nominees presentation to voting representatives.
- VII. Consideration of Nominees.
- VIII. Vote to select Regional Board Member.
- IX. Adjournment.

Chain Participants for their various roles in the opioid crisis. Through April 30, 2023, West Virginia has received more than \$340 million dollars from opioid-related settlements. Settlements with remaining opioid supply chain participants and additional recoveries are possible. Some payments are being made over time; money will continue to be received on an annual basis through at least 2036.

**4. When will Opioid Funds be disbursed to Local Governments and the Regions?**

The Local Governments share (24.5%) will be paid directly to the Local Governments under the terms of the MOU, upon entry of an order from the West Virginia Mass Litigation Panel (“MLP”). The statewide Foundation Board will determine the timing and procedure for disbursement of regional shares under the MOU.

The Foundation Board has sole authority to determine its annual budget. For the first seven years, the Foundation shall spend 20% of its annual budget in the six regions, with funds divided according to each Region's fixed Regional Share Calculation. After seven years, the Foundation Share shall be disbursed based on an evidence-based evaluation of need after consultation with the Expert Panel.

The Foundation Board will determine the amount and timing of fund distribution within 90 days of the first receipt of any Opioid Funds and annually thereafter.

Additional opioid funds may be received over the coming years as additional settlements and judgements are reached.

**5. What can the Opioid Funds be used for?**

All Opioid Funds must be used to for an “Approved Purpose” as defined in the MOU. The kinds of permitted uses include to promote the health and safety of West Virginians by implementing evidence-based strategies, programming and/or services used to expand the availability of treatment for individuals affected by substance use disorders and/or addiction, to develop, promote and provide evidence-based substance use prevention strategies, to provide substance use avoidance and awareness education, to engage in enforcement to curtail the sale, distribution, promotion or use of opioids and other drugs, to support law enforcement efforts to decrease the oversupply of licit and illicit opioids, and to support recovery from addiction to be performed by qualified providers. A complete copy of the “Approved Purposes” can be found in Exhibit A of the MOU.

**6. Which Local Governments will receive Opioid Funds and participate in establishing regional governance and representation?**

Each Local Government is eligible to receive Opioid Funds, subject to the terms of the MOU. Each Local Government will participate in the establishing regional governance and representation.

Local Governments is defined under the MOU as all counties, incorporated cities, towns, and villages located within the state of West Virginia.



Foundation, which is a private section 501(c)(3) foundation, to hold, manage, and distribute the Foundation Share of the Opioid Funds. The West Virginia First Foundation will develop and approve procedures of the disbursement of regional Opioid Funds consistent with the MOU. As to regional shares, the Regions will make submissions to the Foundation to fund projects within the Regions which are consistent with the Approved Purposes stated in the MOU.

The Foundation Board will determine the amount and timing of regional shares within 90 days of the first receipt of any Opioid Funds and annually thereafter. Regional projects which are approved by the Foundation Board will receive funding directly through the Foundation from the appropriate regional Share.

**9. Who will decide how to use the Opioid Funds from the Local Government allocation?**

Local Governments will individually decide on how to use the Opioid Funds from the LG Share (24.5%) in their jurisdiction, consistent with the Approved Purposes.

**10. Who determined how much each county and city will receive?**

The Counties and Cities principally negotiated amongst themselves, and virtually all reached agreement with the State, with the amounts contained in the MOU.

**11. What steps are required to use the Local Government's portion of the Opioid Funds?**

As specifically required by the MOU, Local Governments should pass a resolution or take equivalent action detailing and explaining its use of the funds for restitution. Moreover, up to one-half of the LG Share may be used to provide restitution for monies that were previously expended on opioid abatement activities, including law enforcement and regional jail fees. Local Governments must keep careful record of how any opioid funds are spent. The best way to accomplish this is to keep any opioid-related funds in a separate account.

**12. Who will make decisions on how to use the Opioid Funds from the Region's portion of the Foundation's allocation?**

For the first seven years, 20% of the Foundation's annual budget will be allocated to the six Regions of the state, divided between the Regions according to the Regional Share Calculation. Each Region is given the responsibility to make submissions to the statewide Foundation Board on how and where to direct regional Opioid Funds within the Region.

Each Region must create their own governance structure, ensuring that all Local Governments have input and equitable representation regarding regional decisions, including representation on the Foundation Board and selection of projects to be funded using Regional funds. The Expert Panel (to be appointed by the Foundation Board) may consult with and may make recommendations to Regions on projects, services, and/or expenses to be funded. Regions are responsible for identifying projects, services and/or expenses that will equitably serve the needs of the entire Region.

- iv. Any delegate from a Region may nominate any person to serve as the initial Director for that Region. After nominations are closed, each nominee shall have the opportunity to address the delegates prior to the vote being taken.
- v. The Incorporator or his designee shall conduct the election and count the votes. Votes for Director will be weighted by the final allocation percentages for distributions to all Local Governments as set forth in Exhibit C W/CT2 of the West Virginia First Memorandum of Understanding ("MOU") as may be modified as set forth in Paragraph B2(b)(i) of the MOU.
- vi. After the votes are counted, the Incorporator shall report the totals and certify the results to the Governor and the Attorney General within one week after the selection of the Board Member.

D. The bylaws of the Corporation shall provide for the election of the Directors at or near the expiration of their terms, or, in the event of resignation, death, or incapacity of any director.

E. No individual shall become an officer of the Corporation if the election or appointment thereof would cause the Corporation to be determined or adjudicated by a competent administrative or judicial authority to be controlled directly or indirectly by a disqualified person, as defined in section 509(a)(3)(C) of the Code or any successor law.

F. Each Director, when discharging the duties of a Director, shall act in good faith and in a manner that the director reasonably believes to be in the best interests of the Corporation.

G. The Board may provide Directors with reasonable allowance for expenses actually incurred in connection with their duties.

H. Any Director is entitled to inspect and copy the books, records and documents of the Corporation at any reasonable time to the extent reasonably related to the performance of the Director's duties as a director, including duties as a member of a committee, but not for any other purpose or in any manner that would violate any duty to the Corporation.

**Article XI: Liability.** Pursuant to W. Va. Code § 31E-2-202(b)(4) or any successor law, the Directors shall not, as such, be liable for monetary damages for any action taken, or any failure to take any action, as a director, except liability for any of the following:

A. The amount of a financial benefit that the Director received to which he is not entitled;

the Corporation shall not be dissolved until such time as all payments have been made under the terms of the settlements subject to the West Virginia First Memorandum of Understanding unless otherwise required by judicial order or law.

**West Virginia First Foundation, Inc.**

By: 

John S. Jenkins, CPA, Incorporator

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
2 designated §5-30-1, §5-30-2, §5-30-3, §5-30-4, and §5-30-5, all relating to recognizing the  
3 creation of the West Virginia First Foundation pursuant to the terms of the West Virginia  
4 First Memorandum of Understanding; setting forth legislative findings; defining terms;  
5 specifying governing board membership; providing for appointment of an executive  
6 director of the governing board and setting forth qualifications; providing for audit and  
7 review of the foundation; and requiring local governments, regions, and the foundation to  
8 prepare annual reports.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 30. THE WEST VIRGINIA FIRST FOUNDATION.**

**§5-30-1. Legislative findings.**

1 (a) The citizens of West Virginia, its local governments, and its communities have entered  
2 into a memorandum of understanding. The memorandum of understanding known as the West  
3 Virginia First Memorandum of Understanding was filed in the Circuit Court of Kanawha County,  
4 calling for, inter alia, the creation of the West Virginia First Foundation.

5 (b) The citizens of West Virginia, its local governments, its communities, and the  
6 Legislature are committed to ensure that all opioid funds received in settlement of litigation in the  
7 cases which are the subject of the memorandum of understanding are used in a manner  
8 consistent with evidence-based strategies, programming, and services used to expand the  
9 availability of treatment for individuals affected by substance use disorders and addiction; to  
10 develop, promote, and provide evidence-based substance use prevention strategies; to provide  
11 substance use avoidance and awareness education; to engage in enforcement to curtail the sale,  
12 distribution, and promotion or use of opioids and other drugs; to decrease the oversupply of illicit  
13 opioids; and to support recovery from addiction performed by qualified providers.

14 (c) The creation of a private foundation will advance the goal of abating the opioid epidemic  
15 by providing a long-term steady stream of money to fund the efforts by both private and

**16. How do Regions appoint a Director to the statewide Foundation Board?**

The MOU states that each Region shall create their own governance structure, ensuring that all Local Governments have input and equitable representation regarding regional decisions including representation on the Foundation Board and selection of projects to be funded from the Regional Share Calculation. Each Region will select its Director through the process as outlined in the Articles of Incorporation for the Foundation. That process is as follows:

- a. One (1) Director shall be selected from each of the six Regions to represent the interests of the Local Governments. The Local Governments in each Region shall make the selection of the Director to represent their Region pursuant to the following process:
  - i. The President of the County Commission of the largest county in each region based on the 2020 census shall convene and give notice of a meeting of all of the Local Governments in the region for the purpose of electing the Director for that Region. Notice shall be provided to the Incorporator and each Local Government in the region two weeks prior to the date set for the meeting.
  - ii. Each Local Government shall select one person as their delegate who is authorized to represent the Local Government and vote on the selection of the Director for that Region.
  - iii. The Regions should select initial Directors who have the requisite knowledge, skill, and experience to further the Corporation's mission and purposes. Directors should have expertise in one or more of the following disciplines: substance abuse treatment, mental health, law enforcement, pharmacology, finance, and healthcare policy and management. . Initial Directors shall be residents of the State of West Virginia and the region from which they are selected. Applications from current elected officials are strongly discouraged.
  - iv. Any delegate from a Region may nominate any person to serve as the initial Director for that Region. After nominations are closed, each nominee shall have the opportunity to address the delegates prior to the vote being taken.
  - v. The Incorporator or his designee shall conduct the election and count the votes. Votes for Director will be weighted by the final allocation percentages for distributions to all Local Governments as set forth in

**21. How soon must the Regions establish their regional governance structure?**

The State of West Virginia, Local Governments, and the West Virginia Attorney General are currently working on the creation and organization of the Foundation. The West Virginia MOU does not provide a deadline for establishment of the regional governance structure or appointment by the Regions of their representative to the Foundation Board. Nevertheless, Regions should begin forming their governance structures so that they may participate on Foundation Board upon the creation of the Foundation.

**22. Who will be responsible for monitoring, tracking, and data collection on all activities funded by the WV First Foundation to ensure accountability?**

The Foundation is subject to review and audit by the Attorney General. Additionally, every year the regions will complete reports and audits which will be combined and incorporated into the annual report the Foundation will prepare detailing its financial expenditures for the preceding year.