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Introduced: 2/25/2022

Bill No: 2022-0154, **Version:** 1

Committee: Committee on Finance and Law

Status: Passed Finally

Resolution authorizing the Mayor and the Department of Law and/or the Director of the Department of Finance, on behalf of the City of Pittsburgh, in full and final settlement related to the litigation at *City of Pittsburgh v. Purdue Pharma, L.P. et al.*, Case No. 18-006153, as coordinated in *In Re Opioid Litigation, No. 2017-00895* (Delaware County, PA) stemming from *In Re: National Prescription Opiate Litigation* Case No. 1:17-md-2804 in the US District Court for the Northern District of Ohio, MDL 2804 initially as to the Defendants McKesson Corporation, Cardinal Health, Inc. and AmeriSource Bergen Corporation, Johnson and Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Pharmaceuticals, Inc., and Janssen Pharmaceutica, Inc., and any future settling Defendants, to accept a yearly allocation of funds into a special revenue account to be subsequently created to accept the funds of this settlement as determined by Pennsylvania's Intrastate Opioid Trust & Allocation Order.

(Executive Session held 3/16/22)

WHEREAS: The City of Pittsburgh agrees to participate in a statewide settlement agreement resolving claims between Defendants Cardinal, McKesson, and AmerisourceBergen, as pharmaceutical distributors, and Johnson & Johnson, as an opioid manufacturer, and numerous litigating and non-litigating state and local governments in Pennsylvania. This legislation makes the City of Pittsburgh eligible to receive settlement funds pursuant to Pennsylvania's intrastate allocation agreement as further described below and in Pennsylvania Intrastate Allocation Agreement.

WHEREAS: According to Pennsylvania's Attorney General's Office the settlement between the above mentioned parties resulted from investigations by state attorneys general into whether the three distributors fulfilled their legal duty to refuse to ship opioids to pharmacies that submitted suspicious drug orders and whether Johnson & Johnson misled patients and doctors about the addictive nature of opioid drugs. The settlement trust will require:

- The three distributors collectively will pay up to \$21 billion to Pennsylvania's Intrastate Opioid Trust over 18 years.
- Johnson & Johnson will pay up to \$5 billion over nine years with up to \$3.7 billion paid during the first three years.
- The total funding distributed will be determined by the overall degree of participation by both litigating and non-litigating state and local governments.
- The substantial majority of the money is to be spent on opioid treatment and prevention.
- Each state's share of the funds was determined by agreement among the states using a formula that takes into account the impact of the crisis on the state-including the number of overdose deaths, the number of residents with substance use disorder, the quantity of opioids delivered-and the population of the state.

The agreement will further result in court orders requiring Cardinal, McKesson, and AmerisourceBergen to:

- Establish a centralized independent clearinghouse to provide all three distributors and state regulators with aggregated data and analytics about where drugs are going and how often, eliminating blind spots in the current systems used by distributors.
- Use data-driven systems to detect suspicious opioid orders from customer pharmacies.
- Terminate customer pharmacies' ability to receive shipments, and report those companies to state regulators, when they show certain signs of diversion.
- Prohibit shipping of and report suspicious opioid orders.
- Prohibit sales staff from influencing decisions related to identifying suspicious opioid orders.
- Require senior corporate officials to engage in regular oversight of anti-diversion efforts.

Additionally, the 10-year agreement will result in court orders requiring Johnson & Johnson to:

- Stop selling opioids.
- Not fund or provide grants to third parties for promoting opioids.
- Not lobby on activities related to opioids.
- Share clinical trial data under the Yale University Open Data Access Project.

WHEREAS: In lieu of further prosecution pursuant to Resolution 233 of 2020, the City now wishes to accept this settlement agreement.

Be it resolved by the Council of the City of Pittsburgh as follows:

Section 1: The Mayor and the Department of Law and/or the Director of the Department of Finance, on behalf of the City of Pittsburgh, in full and final settlement related to the litigation at *City of Pittsburgh v. Purdue Pharma, L.P. et al.*, Case No. 18-006153, as coordinated in *In Re Opioid Litigation, No. 2017-00895* (Delaware County, PA) stemming from *In Re: National Prescription Opiate Litigation* Case No. 1:17-md-2804 in the US District Court for the Northern District of Ohio, MDL 2804 initially as to the Defendants McKesson Corporation, Cardinal Health, Inc. and AmeriSource Bergen Corporation, Johnson and Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Pharmaceuticals, Inc., and Janssen Pharmaceutica, Inc., and any future settling Defendants, are authorized to accept a yearly allocation of funds into a special revenue account to be subsequently created to accept the funds of this settlement as determined by Pennsylvania's Intrastate Opioid Trust & Allocation Order.

Section 2: The yearly allocation of funds will be established pursuant the Pennsylvania Opioid Misuse and Addiction Abatement Trust to be created by Pennsylvania's Opioid Trust & Allocation Order until the trust is dissolved. Once determined and distributed to the City of Pittsburgh the funds are to be spent equitably in a way that most effectively abates the effects of the Opioid misuse and addiction within the judgment of the City of Pittsburgh and in conformity with the National Opioid Settlement guidelines.