

NOTICE OF MEETING

SHEBOYGAN COUNTY EXECUTIVE COMMITTEE

**February 6, 2023
3:45 P.M. or Immediately to Follow the Joint
Executive and Human Resources Committee
Meeting**

Administration Building
508 New York Ave
Sheboygan WI 53081
Room 302

AGENDA

Call to Order

Certification of Compliance with Open Meeting Law

Consideration Resolution No.____ Re: Authorizing Sheboygan County to Enter Into the Settlement Agreements with CVS, Walgreens, Walmart, Teva, and Allergan, Agree to the Terms of the Memorandum of Understanding Allocating Settlement Proceeds, and Authorize Entry Into the Memorandum of Understanding with the Attorney General

Adjournment

Prepared by:
Peggy Osthelder
Recording Secretary

Vern Koch
Committee Chairperson

NOTE: Members of the public are invited to offer comments on topics which may or may not appear on the Agenda, and Committee members may discuss such matters, but no action may be taken by the Committee on non-Agenda topics. Individual speakers may be limited to no more than five minutes.

A majority of the members of the County Board of Supervisors or of any of its committees may be present at this meeting to listen, observe and participate. If a majority of any such body is present, their presence constitutes a "meeting" under the Open Meeting Law as interpreted in State ex rel. Badke v. Greendale Village Board, 173 Wis. 2d 553 (1993), even though the visiting body will take no action at this meeting.

If listed as an agenda item, the "Administrator's Report" is a summary of key activities for the previous month and planned for upcoming months including performance evaluations, liaison committee issues and County Board issues. No action will be taken by the Executive committee resulting from the report unless it is a specific item on the agenda.

Persons with disabilities needing assistance to attend or participate are asked to notify the County Board Chairman/County Administrator's Office at 920-459-3103 prior to the meeting so that accommodations may be arranged.

54 **WHEREAS**, 2021 Wisconsin Act 57 created Section 165.12 of the Wisconsin Statutes relating to
55 the settlement of all or part of the Litigation, and
56

57 **WHEREAS**, pursuant to Wis. Stat. § 165.12(2), the Legislature's Joint Committee on Finance is
58 required to approve the Settlement Agreements and the AG MOU, and
59

60 **WHEREAS**, pursuant to Wis. Stat. § 165.12(2), the proceeds from any settlement of all or part of
61 the Litigation are distributed 70% to local governments in Wisconsin that are parties to the Litigation and
62 30% to the State, and
63

64 **WHEREAS**, Wis. Stat. § 165.12(4)(b)2 provides the proceeds from the Settlement Agreement must
65 be deposited in a segregated account ("the Opioid Abatement Account") and may be expended only for
66 approved uses for opioid abatement as provided in the Settlement Agreements, and
67

68 **WHEREAS**, Wis. Stat. § 165.12(7) bars claims from any Wisconsin local government against the
69 Opioid Defendants filed after June 1, 2021, and
70

71 **WHEREAS**, the definition of Participating Subdivisions in the Settlement Agreements recognizes
72 a statutory bar on claims such as that set forth in Wis. Stat. § 165.12(7) and, as a result, the only
73 Participating Subdivisions in Wisconsin are those counties and municipalities that were parties to the
74 Litigation (or otherwise actively litigating a claim against one, some, or all of the Opioid Defendants) as of
75 June 1, 2021, and
76

77 **WHEREAS**, the Legislature's Joint Committee on Finance is not statutorily authorized or required
78 to approve the allocation of proceeds of the Settlement Agreements among Wisconsin Participating
79 Subdivisions, and
80

81 **WHEREAS**, the Law Firms have engaged in extensive discussions with counsel for all other
82 Wisconsin Participating Subdivisions resulting in the proposed Allocation MOU, which is an agreement
83 between all of the entities identified in the Allocation MOU as to how the proceeds payable to those entities
84 under the Settlement Agreements will be allocated, and
85

86 **WHEREAS**, there is provided with this Resolution a summary of the essential terms of the
87 Settlement Agreements, the deadlines related to the effective dates of the Settlement Agreements, the
88 ramifications associated with the County's refusal to enter into the Settlement Agreements, the form of the
89 Allocation MOU, the form of the AG MOU, and an overview of the process for finalizing the Settlement
90 Agreements, and
91

92 **WHEREAS**, the County's Opioid Abatement Account, previously created, shall be separate from
93 the County's general fund, shall not be commingled with any other County funds, and shall be dedicated to
94 funding opioid abatement measures as provided in the Settlement Agreements, and
95

96 **WHEREAS**, pursuant to the County's engagement agreement with the Law Firms, the County shall
97 pay up to an amount equal to 25% of the proceeds from successful resolution of all or part of the Litigation,
98 whether through settlement or otherwise, plus the Law Firms' costs and disbursements, to the Law Firms
99 as compensation for the Law Firms' efforts in the Litigation and any settlement, and
100

101 **WHEREAS**, the Law Firms anticipate making application to the national fee fund established in the
102 Settlement Agreements seeking payment, in whole or part, of the fees, costs, and disbursements owed the
103 Law Firms pursuant to the engagement agreement with the County, and
104

105 **WHEREAS**, it is anticipated the amount of any award from the fee fund established in the
106 Settlement Agreements will be insufficient to satisfy the County's obligations under the engagement
107 agreement with the Law Firms, and

108
109 **WHEREAS**, the County, by this Resolution, and pursuant to the authority granted the County in the
110 applicable Order emanating from the Litigation in relation to the Settlement Agreements and payment of
111 attorneys' fees, shall execute an Escrow Agreement which shall, among other things, direct the escrow
112 agent responsible for the receipt and distribution of the proceeds from the Settlement Agreements to
113 establish an account for the purpose of segregating funds to pay the fees, costs, and disbursements of the
114 Law Firms owed by the County ("the Attorneys' Fees Account") in order to fund a state-level "backstop" for
115 payment of the fees, costs, and disbursements of the Law Firms, and

116
117 **WHEREAS**, in no event shall payments to the Law Firms out of the Attorneys' Fees Account and
118 the fee fund established in the Settlement Agreements exceed an amount equal to 25% of the amounts
119 allocated to the County in the Allocation MOU, and

120
121 **WHEREAS**, the intent of this Resolution is to authorize the County to enter into the Settlement
122 Agreements, the Allocation MOU, and the AG MOU, and

123
124 **WHEREAS**, the County, by this Resolution, shall authorize the County's Corporation Counsel to
125 finalize and execute any escrow agreement and other document or agreement necessary to effectuate the
126 Settlement Agreements and the other agreements referenced herein;

127
128 **NOW, THEREFORE, BE IT RESOLVED** that the Sheboygan County Board of Supervisors hereby
129 approves:

- 130
131 1. The execution of the Settlement Agreements and any and all documents ancillary thereto
132 and authorizes the Board Chair, County Clerk and/or Corporation Counsel to execute
133 same.
134
135 2. The final negotiation and execution of the Allocation MOU in form substantially similar to
136 that presented with this Resolution and any and all documents ancillary thereto and
137 authorizes the Board Chair to execute same upon finalization provided the percentage
138 share identified as allocated to the County is substantially similar to that identified in the
139 Allocation MOU provided to the Board with this Resolution.
140
141 3. The final negotiation and execution of the AG MOU in form substantially similar to that
142 presented with this Resolution and any and all documents ancillary thereto and authorizes
143 the Board Chair to execute same.
144
145 4. The Corporation Counsel's negotiation and execution of the Escrow Agreement for the
146 receipt and disbursement of the proceeds of the Settlement Agreements as referenced in
147 the Allocation MOU.
148
149

150 **BE IT FURTHER RESOLVED** that Sheboygan County hereby authorizes the escrow agent under
151 the Escrow Agreement to establish an account separate and distinct from any account containing funds
152 allocated or allocable to the County which shall be referred to by the County as the "Attorneys' Fees
153 Account." The escrow agent shall deposit a sum equal to up to, but in no event exceeding, an amount
154 equal to 20% of the County's proceeds from the Settlement Agreements into the Attorney Fees Account. If
155 the payments to the County are not enough to fully fund the Attorneys' Fees Account as provided herein
156 because such payments are made over time, the Attorneys' Fees Account shall be funded by placing up
157 to, but in no event exceeding, an amount equal to 20% of the proceeds from the Settlement Agreements
158 attributable to Local Governments (as that term is defined in the Allocation MOU) into the Attorneys' Fees
159 Account for each payment. Funds in the Attorneys' Fees Account shall be utilized to pay the fees, costs,
160 and disbursements owed to the Law Firms pursuant to the engagement agreement between the County
161 and the Law Firms provided, however, the Law Firms shall receive no more than that to which they are

162 entitled under their fee contract when considering the amounts paid the Law Firms from the fee fund
163 established in the Settlement Agreements and allocable to the County. The Law Firms may make
164 application for payment from the Attorneys' Fees Account at any time and the County shall cooperate with
165 the Law Firms in executing any documents necessary for the escrow agent to make payments out of the
166 Attorneys' Fees Account.

167
168 **BE IT FURTHER RESOLVED** that all actions heretofore taken by the Board of Supervisors and
169 other appropriate public officers and agents of Sheboygan County with respect to the matters contemplated
170 under this Resolution are hereby ratified, confirmed, and approved.

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172
173 Respectfully submitted this 21st day of February, 2023.

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175
176 **EXECUTIVE COMMITTEE**

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180 _____
181 Vernon Koch, Chairperson

Keith Abler, Vice-Chairperson

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183 _____
184 William C. Goehring, Secretary

Curt Brauer

185
186 _____
187 Edward J. Procek

188 Opposed to Introduction:

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190 _____

National Opioid Settlements: Teva, Allergan, CVS, Walgreens, and Walmart

Sheboygan County, WI

Reference Number: CL-393636

***TO LOCAL POLITICAL SUBDIVISIONS AND SPECIAL DISTRICTS:
THIS NOTICE CONTAINS IMPORTANT INFORMATION ABOUT NATIONAL OPIOID SETTLEMENTS.***

SETTLEMENT OVERVIEW

Proposed nationwide settlement agreements (“Settlements”) have been reached that would resolve opioid litigation brought by states, local political subdivisions, and special districts against two pharmaceutical manufacturers, Teva and Allergan (“Manufacturers”), and three pharmacies, CVS, Walgreens, and Walmart (“Pharmacies”). Local political subdivisions and special districts are referred to as “subdivisions.”

The Settlements require the settling Manufacturers and Pharmacies to pay billions of dollars to abate the opioid epidemic. The Settlements total over \$20 billion. Of this amount, approximately \$17 billion will be used by participating states and subdivisions to remediate and abate the impacts of the opioid crisis. Depending on participation by states and subdivisions, the Settlements require:

- Teva to pay up to \$3.34 billion over 13 years and to provide either \$1.2 billion of its generic version of the drug Narcan over 10 years or an agreed upon cash equivalent over 13 years;
- Allergan to pay up to \$2.02 billion over 7 years;
- CVS to pay up to \$4.90 billion over 10 years;
- Walgreens to pay up to \$5.52 billion over 15 years; and
- Walmart to pay up to \$2.74 billion in 2023, and all payments to be made within 6 years.

As provided under the Agreements, these figures are net of amounts attributable to prior settlements between the Defendants and certain states/subdivisions, and include amounts for attorneys’ fees and costs.

The Settlements also contain injunctive relief governing opioid marketing, sale, distribution, and/or dispensing practices.

Each of the proposed settlements has two key participation steps.

First, each eligible state decides whether to participate in each Settlement. A list of participating states for each settlement can be found at <https://nationalopioidsettlement.com>.

Second, eligible subdivisions within each participating state decide whether to participate in each Settlement. The more subdivisions that participate, the more funds flow to that state and its subdivisions. Any subdivision that does not participate cannot directly share in any of the settlement funds, even if the subdivision’s state is settling and other participating subdivisions are sharing in settlement funds. If the state does not participate in a particular Settlement, the subdivisions in that state are not eligible to participate in that Settlement.

WHO IS RUBRIS INC. AND WHAT IS THE IMPLEMENTATION ADMINISTRATOR?

The Settlements provide that an Implementation Administrator will provide notice and manage the collection of participation forms. Rubris Inc. is the Implementation Administrator for these new Settlements and was also retained for the 2021 national opioid settlements.

WHY IS YOUR SUBDIVISION RECEIVING THIS NOTICE?

Your state has elected to participate in one or more of the Settlements with the Manufacturers and/or the Pharmacies, and your subdivision may participate in those Settlements in which your state has elected to participate. This notice is also sent directly to counsel for such subdivisions if the Implementation Administrator has their information.

If you are represented by an attorney with respect to opioid claims, please contact them. Subdivisions can participate in the Settlements whether or not they filed a lawsuit or are represented.

WHERE CAN YOU FIND MORE INFORMATION?

Detailed information about the Settlements, including each settlement agreement, may be found at: <https://nationalopioidsettlement.com>. This website also includes information about how the Settlements are being implemented in most states and how funds will be allocated within your state.

You are encouraged to review the settlement agreement terms and discuss the terms and benefits with your counsel, your Attorney General's Office, and other contacts within your state. Information and documents regarding the Settlements and your state allocation can be found on the settlement website at <https://nationalopioidsettlement.com>.

Your subdivision will need to decide whether to participate in the proposed Settlements, and subdivisions are encouraged to work through this process before the **April 18, 2023** deadline.

HOW DO YOU PARTICIPATE IN THE SETTLEMENTS?

The Settlements require that you take affirmative steps to "opt in" to the Settlements.

In the next few weeks, you will receive documentation and instructions from the Implementation Administrator or, in some cases, your Attorney General's Office. In order to participate in a settlement, a subdivision must sign and return the required Participation Form for that settlement.

Please add the following email addresses to your "safe" list so emails do not go to spam / junk folders: dse_na3@docusign.net and opioidsparticipation@rubris.com. Please monitor your email for the Participation Forms and instructions.

All required documentation must be signed and returned on or before **April 18, 2023**.