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Gov. Spencer Cox and Attorney General Sean Reyes Announce \$26 Billion Agreement with Opioid Distributors/Manufacturer

SALT LAKE CITY (July 22, 2021) – Utah Gov. Spencer Cox and Attorney General Sean D. Reyes today announced a historic \$26 billion agreement that will help bring desperately needed relief to people across the country who are struggling with opioid addiction. The agreement includes Cardinal, McKesson, and AmerisourceBergen – the nation's three major pharmaceutical distributors – and Johnson & Johnson, which manufactured and marketed opioids. The agreement also requires significant industry changes that will help prevent this type of crisis from ever happening again. The agreement would resolve investigations and litigation over the companies' roles in creating and fueling the opioid epidemic.

Utah's portion of the settlement is 1.1889%, for a total of \$309,114,000 dollars to be paid over 18 years.

"The impacts of the opioid epidemic have been and continue to be devastating to thousands of Utahns and their families, so I appreciate the Department of Commerce and the Attorney General's Office negotiating this agreement on behalf of Utah," Gov. Cox said. "I look forward to working with the Legislature to determine the best use of these funds to benefit Utahns affected by the opioid crisis."

Utah Attorney General Sean Reyes said: "This is a reckoning long overdue. It has taken us years of hard-fought investigation, and I'm proud of the bipartisan cooperation that has gone into the prosecution and negotiation to arrive at this landmark settlement. But that is nothing compared to the years of suffering from so many in our state. Families across our state have shared with me their heart-wrenching stories about loved ones struggling with the horrible disease of addiction or who have overdosed and died. On their behalf, it has been my genuine honor to fight back and hold these and other companies accountable for helping to create and fuel this crisis."

"These companies failed to protect consumers from the dangers of opioids, even when they claimed to have systems in place to do so," said Margaret Busse, executive director of the Department of Commerce. "While the harm to individuals and families in Utah and across the country cannot be quantified, these settlements play an important role in holding these companies accountable for their misconduct. We will work with the governor to ensure that the dollars that come from the settlements will be used to help those impacted by the opioid epidemic."

The agreement would resolve the claims of both states and local governments across the country, including the nearly 4,000 that have filed lawsuits in federal and state courts. Following today's agreement, states have 30 days to sign onto the deal and local governments in the participating states will have up to 150 days to join to secure a critical mass of participating states and local governments. States and their local governments will receive maximum payments if each state and its local governments join in support of the agreement.

Funding Overview:

- The three distributors collectively will pay up to \$21 billion 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 funding has been determined by agreement among the states using a formula that takes into account the impact of the crisis on the state – the number of overdose deaths, the number of residents with substance use disorder, and the number of opioids prescribed – and the population of the state.

Injunctive Relief Overview:

- The 10-year agreement will 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.
- 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.

This settlement comes as a result of 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.

Tragically, just last year, opioid overdose deaths rose to a record 93,000, a nearly 30 percent increase over the prior year. Many, many more have seen their lives torn apart by the disease of addiction. The damage also impacts their families and friends and their broader communities that suffer the consequences.

A previous version of this deal in principle was announced in 2019 and included the opioid manufacturer Teva. Negotiations with Teva are ongoing and are no longer part of this agreement.

Today's deal comes on the heels of previously announced opioid settlements with Purdue Pharma, McKinsey Consulting, Mallinckrodt, and Insys Therapeutics. Combined these earlier matters will generate approximately \$6.7 billion for opioid abatement, which in addition to today's agreement brings the collective opioid efforts of the attorneys general to \$32.7 billion. These opioid cases represent the largest attorney general multi-state enforcement actions in history other than the tobacco master settlement agreement.

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