§ 25.18 Statewide opioid settlements.

(a) Definitions. As used in this section, the following terms shall have the following meanings: 1. Eligible expenditures shall include services and programs that are consistent with the approved uses and terms of the statewide opioid settlement agreement as defined in this section, which may only include:

(i) to prevent substance use disorders through an evidence-based youth-focused public health education and prevention campaign, including school-based prevention and health care services and programs to reduce the risk of substance use by school-aged children;

(ii) to develop and implement statewide public education campaigns to reduce stigma against individuals with a substance use disorder, provide information about the risks of substance use, best practices for addressing substance use disorders, and information on how to locate services that reduce the adverse health consequences associated with substance use disorders or provide treatment for substance use disorders;

(iii) to provide substance use disorder treatment and early recovery programs for youth and adults, with an emphasis on programs that provide a continuum of care that includes screening and assessment for substance use disorders and co-occurring disorders, active treatment, family involvement, case management, relapse management for substance use and other co-occurring behavioral health disorders, vocational services, literacy services, parenting classes, family therapy and counseling services, crisis services, recovery services, evidence-based treatments, medication-assisted treatments, including medication assisted treatment provided in correctional facilities, psychiatric medication, psychotherapy and transitional services programs;

(iv) to provide harm reduction counseling and services to reduce the adverse health consequences associated with substance use disorders, including overdose prevention and prevention of communicable diseases related to substance use, provided by a substance use disorder service provider or qualified community-based organization;

(v) to provide housing services for people who are recovering from a substance use disorder. Such housing services shall be appropriate, based on the individual's current need and stage of recovery. Such housing services may include but are not limited to supportive housing

services;

(vi) to support community-based programs that reduce the likelihood of criminal justice involvement for individuals who have or are at risk of having a substance use disorder;

(vii) to provide programs for pregnant women and new parents who currently or formerly have had a substance use disorder and newborns with neonatal abstinence syndrome; and/or

(viii) to provide vocational and educational training for individuals with or at risk for a substance use disorder.

2. "Government entity" means (i) departments, agencies, divisions, boards, commissions and/or instrumentalities of the state of New York, excluding the department of financial services, provided however, the department of financial services shall be considered a government entity for purposes of claims or proceedings filed by it against Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc., and/or Janssen Pharmaceutica, Inc.; the superintendent of the department of financial services; and the department of law; and

(ii) any governmental subdivision within the boundaries of the state of New York, including, but not limited to, counties, municipalities, districts, towns and/or villages, and any of their subdivisions, special districts and school districts, and any department, agency, division, board, commission and/or instrumentality thereof.

3. "Participating entities" means participating entities as such term is defined in any statewide opioid settlement agreement.

4. "Opioid settlement fund" means the fund created by section ninety-nine-nn of the state finance law, the funds of which shall be used or distributed by the commissioners, as authorized by the legislature by statute or appropriation, for the purposes of preventing addiction and reducing the harms caused by the overdose and substance use disorder epidemic consistent with the terms of any statewide opioid settlement agreement.

5. "Released claims" means released claims as such term is defined in

the statewide opioid settlement agreements.

6. "Released entities" means released entities as such term is defined in the statewide opioid settlement agreements.

7. "New York subdivisions" means each county, city, town, village, or special district in the state of New York.

8. "Statewide opioid settlement agreements" means agreements of statewide applicability entered into on or after June first, two thousand twenty-one by the office of the attorney general, including but not limited to consent judgments, consent decrees filed or unfiled, and related agreements or documents between the state and any party, the purpose of which is to resolve claims for conduct related to the manufacture, promotion, dispensing, sale, overutilization and/or distribution of opioid products which are consistent with subdivision sixteen of section sixty-three of the executive law. Copies of such agreements, including any amendments thereto, shall be kept on file by the attorney general, who shall make such available for inspection and copying pursuant to the provisions of article six of the public officers law.

(b) Eligible expenditures for opioid settlement funds. 1. The legislature shall appropriate funds to be used for eligible expenditures that are consistent with the approved uses and terms of the statewide opioid settlement agreement. Such expenditures shall be distributed regionally and in accordance with the statewide opioid settlement agreements to ensure adequate geographic disbursement across the state.

2. New York subdivisions may apply to the appropriate agency for funding for eligible expenditures consistent with the terms of any statewide opioid settlement agreement. Any New York subdivision which receives funding pursuant to this section shall be required to annually certify to the appropriate state agency in which funding was received that such New York subdivision is utilizing such funds in accordance with the requirements of this section and section ninety-nine-nn of the state finance law.

3. Each New York subdivision shall provide a detailed accounting of how the funds were used as well as an analysis and evaluation of the services and programs funded. Such information shall be included in the report provided pursuant to paragraph ten of subdivision (c) of this section.

(c) Advisory board establishment and responsibilities. 1. The opioid settlement board is hereby established under the office of addiction services and supports to provide recommendations on how funding received by the opioid settlement fund pursuant to section ninety-nine-nn of the state finance law shall be allocated by the legislature. Recommendations shall be evidence-based and may take into consideration federal, state or local initiatives and activities that have shown to be effective in preventing and treating substance use disorders as well as maintaining recovery and assisting with the collateral effects of substance use disorders for individuals and their families or support system. Such recommendations shall also take into account any gaps in access to services or programs identified as eligible expenditures and incorporate mechanisms for measurable outcomes for determining the effectiveness of funds expended. The office and any other relevant agency that provides or regulates eligible expenditures shall provide any necessary staff, resources and technical assistance to assist with the functions of the advisory board. Such assistance shall be supported pursuant to an appropriation by the legislature, in accordance with the statewide opioid settlement agreements.

2. The opioid settlement board may make recommendations to the legislature and the governor regarding the addition or removal of any eligible expenditures in response to changing substance use disorder needs in the state. No recommendation may be made to remove an eligible expenditure without three-fourths approval of present board members.

3. The opioid settlement board shall consist of twenty-one members appointed as follows:

(i) the commissioner of addiction services and supports, the commissioner of mental health, the commissioner of health, and the director of the division of budget, or their designees;

(ii) two appointments by the governor;

(iii) three appointments by the temporary president of the senate;

(iv) three appointments by the speaker of the assembly;

(v) one appointments by the attorney general;

(vi) one appointment by the mayor of the city of New York; and

(vii) seven appointments from a list of nominees submitted, pursuant to a statewide opioid settlement agreement, by an association of counties that represents at least ninety percent of the counties in New York, counting both by number of counties and by population at the time such statewide opioid settlement agreement was finalized. Such appointments shall be selected as follows: three from the governor, one from the temporary president of the senate, one from the speaker of the assembly, one from the minority leader of the senate and one from the minority leader of the assembly.

4. Each member shall be appointed to serve three-year terms and in the event of a vacancy, the vacancy shall be filled in the manner of the original appointment for the remainder of the term. The appointed members and commissioners shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their duties as board members.

5. Every effort shall be made to ensure a balanced and diverse board, representing the geographic regions and racial and ethnic demographics of the state as well as those with lived experiences of a substance use disorder. Appointed members shall have an expertise in public and behavioral health, substance use disorder treatment, harm reduction, criminal justice, public finance, or drug policy. Further, the board shall include individuals with personal or professional experience with substance use and addiction issues and co-occurring mental illnesses as well as providing services to those that have been disproportionately impacted by the enforcement and criminalization of addiction.

6. The chairperson of the board and the vice chairperson shall be elected from among the members of the board by the members of such board. The vice chairperson shall represent the board in the absence of the chairperson at all official board functions. A majority of the voting members of the board shall constitute a quorum.

7. Members of the board shall not take any action to direct funding from the opioid settlement fund to any entity in which they or their family members have any interest, direct or indirect, or receive any commission or profit whatsoever, direct or indirect. Members of the board shall recuse themselves from any discussion or vote relating to such interest.

8. The board shall meet at least quarterly, to ensure recommendations are updated and consistent with the needs of the state. Such meetings shall be held in accordance with article seven of the public officers law and pursuant to the federal americans with disabilities act of nineteen hundred ninety, as amended.

9. On or before November first of each year, beginning November first, two thousand twenty-one, the board shall provide their recommendations for how such funds shall be appropriated, consistent with the requirements of this section and section ninety-nine-nn of the state finance law. Such recommendations shall be provided in a written report to the governor, the temporary president of the senate, the speaker of the assembly, the chair of the senate finance committee, the chair of the assembly ways and means committee, the chair of the senate alcoholism and substance abuse committee and the chair of the assembly alcoholism and drug abuse committee.

10. On or before November first of each year, beginning one year after the initial deposit of monies in the opioid settlement fund, the relevant commissioners shall provide a written report to the governor, temporary president of the senate, speaker of the assembly, chair of the senate finance committee, chair of the assembly ways and means committee, chair of the senate alcoholism and substance use disorders committee, chair of the assembly alcoholism and drug abuse committee, and the opioid settlement advisory board. Such report shall be presented as a consolidated dashboard and be made publicly available on the respective offices' websites. The report shall, to the extent practicable after making all diligent efforts to obtain such information, include the following: (i) the baseline funding for any

entity that receives funding from the opioid settlement fund, prior to the receipt of such funds; (ii) how funds deposited in the opioid settlement fund had been utilized in the preceding calendar year, including but not limited to: (A) the amount of money disbursed and the award process used for such disbursement, if applicable; (B) the names of the recipients, the amounts awarded to such recipient and details about the purpose such funds were awarded for, including what specific services and programs the funds were used on and what populations such services or programs served; (C) the main criteria utilized to determine the award, including how the program or service assists to reduce the effects of substance use disorders; (D) an analysis of the effectiveness of the services and/or programs that received opioid settlement funding in their efforts to reduce the effects of the overdose and substance use disorder epidemic. Such analysis shall utilize evidence-based uniform metrics when reviewing the effects the service and/or program had on prevention, harm reduction, treatment, and recovery advancements; (E) any relevant information provided by the New York subdivisions pursuant to this section; and (F) any other information the commissioner deems necessary to help inform future appropriations and funding decisions, and ensure such funding is not being used to supplant local, state, or federal funding.

(c-1) On or before November first of each year, any New York subdivision that directly received funds pursuant to a statewide opioid settlement agreement shall publicly post on their website information regarding how such funding was utilized and shall submit such information to the office of addiction services and supports. Such information shall be updated on an annual basis. The office of addiction services and supports shall re-post such information on its website.

(d) Limitation on authority of government entities to bring lawsuits. No government entity shall have the authority to assert released claims against entities released by the department of law in a statewide opioid settlement agreement executed by the department of law and the released party on or after June first, two thousand twenty-one. Any action filed by a government entity after June thirtieth, two thousand nineteen asserting released claims against a released party in a statewide opioid settlement agreement, shall be extinguished by operation of law upon being released pursuant to such statewide opioid settlement agreement.