



EXECUTIVE ORDER 2023-02

WHEREAS, the State of North Dakota, through its Attorney General, has reached court-approved settlements with opioid manufacturers and distributors to address and remediate the public health crisis caused by the opioid epidemic; and,

WHEREAS, the Attorney General's settlements with opioid manufacturers and distributors require the creation of an advisory committee to provide input and recommendations regarding the spending of funds received from the settlement for opioid remediation; and,

WHEREAS, the creation of an advisory committee is required for the State of North Dakota to receive and spend settlement funds that are restricted to the use for opioid remediation; and,

WHEREAS, the opioid epidemic has caused significant harm to the State and its residents and is continuing to cause harm, and it is important to immediately start putting the settlement funds to use to help abate and remediate the opioid epidemic.

NOW, THEREFORE, Doug Burgum, Governor of North Dakota, by virtue of the authority under Article V, Section 1 of the North Dakota Constitution, orders:

1. The Opioid Settlement Advisory Committee (Committee) is established to provide input and recommendations to the North Dakota Department of Health and Human Services (DHHS) regarding the use of opioid remediation funds for projects or programs on a statewide, regional and local level, and in accordance with the terms of any settlement that provides payments for opioid remediation.
 - a. As used in this executive order, "opioid remediation" means care, treatment and other programs, including approved uses, agreed to in a settlement agreement or judgment with opioid manufacturers, distributors or pharmacies, and expenditures designed to:
 - i. Address the misuse and abuse of opioid products;
 - ii. Treat or mitigate opioid use or related disorders; or
 - iii. Mitigate other effects of the opioid epidemic, including effects on individuals injured because of the opioid epidemic.
 - b. "Opioid Remediation Funds" means money received by the Attorney General that is restricted or required to be used for opioid remediation, pursuant to a settlement with an opioid manufacturer, distributor or pharmacy.

2. The Committee consists of seven (7) members appointed by the Governor. The members must include six (6) voting members and a non-voting chairperson designated by the Governor. The voting membership of the Committee must include three (3) members representing participating political subdivisions and three (3) members representing the State of North Dakota. As used in this executive order, "participating political subdivisions" means a county or city in the State of North Dakota that is a signatory to a settlement with an opioid manufacturer, distributor or pharmacy. To the extent practicable, the members representing the participating political subdivisions must include:
 - (a) One member representing North Dakota counties with a population of more than 10,000;
 - (b) One member representing North Dakota counties with a population of 10,000 or less; and
 - (c) One member representing North Dakota cities.

Appointment to the Committee is for a term of six (6) years. Initial appointments will be staggered so that two (2) members – one (1) member representing the State of North Dakota and one (1) member representing participating political subdivisions – will each serve an initial term expiring on June 30, 2024, two (2) members – one (1) member representing the State of North Dakota and one (1) member representing participating political subdivisions – will each serve an initial term expiring on June 30, 2026, and two (2) members – one (1) member representing the State of North Dakota and one (1) member representing participating political subdivisions – will each serve an initial term expiring on June 30, 2028.

3. The Governor may reappoint members, however, the Attorney General may recommend, in writing, up to three (3) individuals for the Governor to consider in each appointment of a voting member. The Governor may remove members from the Committee. A vacancy on the Committee must be filled by the Governor for the remainder of the unexpired term.
4. All members of the Committee are subject to conflict of interest and ethics requirements established in North Dakota law. Members of the Committee may not receive compensation, except for reimbursement of expenses incurred by a Committee member in the performance of an official Committee function. Staff and administrative services for the Committee, if needed, shall be provided by DHHS.

5. The Committee shall hold at least four (4) public meetings annually, to be publicized and located in a manner reasonably designed to facilitate attendance by residents throughout the State. The Committee shall comply with the requirements of North Dakota Century Code chapter 44-04, and with the Americans with Disabilities Act.
6. The Committee shall receive input from participating political subdivisions and other local governing bodies regarding how the opioid crisis is affecting their communities, their remediation needs and proposals for remediation strategies and responses. The Committee may also receive input from medical providers, opioid treatment providers, educators, stakeholders or individual citizens regarding the effect of the opioid crisis, remediation needs and suggestions for remediation projects or strategies.
7. The Committee shall attempt to reach consensus with respect to recommendations and actions of the Committee. "Consensus" means a general agreement of the Committee members that reflects their active support, support with reservations or willingness to abide by the decision of the other members. Consensus does not mean unanimity or other set thresholds and may include objectors. Actions of the Committee shall be effective if supported by at least a majority of the members. The Committee's recommendations and other actions shall note the existence and summarize the substance of objections if requested by an objector.
8. The Committee shall make recommendations regarding specific opioid remediation or abatement priorities and expenditures for the use of Opioid Remediation Funds on approved opioid remediation uses to DHHS. To provide recommendations, the Committee may:
 - a) Consider local, state and federal initiatives and activities related to education, prevention, treatment and services for individuals and families experiencing and affected by opioid use disorder;
 - b) Recommend priorities to address the State's opioid epidemic, which recommendations may be statewide, regional or local;
 - c) Recommend statewide, regional or local funding with respect to specific programs or initiatives;
 - d) Make recommendations that ensure funding is allocated to align with other state and federal funding, achieves the greatest impact, avoids supplanting existing funding and ensures a coordinated state effort;
 - e) Recommend measurable outcomes to determine the effectiveness of funds expended for opioid remediation; and

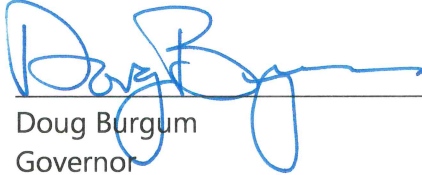
- f) Monitor the level of administrative expenses expended from Opioid Remediation Funds.
- 9. The Committee shall endeavor to produce recommendations that are recognized as being an efficient, evidence-based approach to remediation or abatement that addresses the State’s greatest needs while also including programs reflecting particular needs in local communities.
- 10. If DHHS chooses not to follow a Committee recommendation, DHHS is required to make publicly available, within fourteen (14) days after the decision is made, a written explanation of the reasons for DHHS’s decision, and allow seven (7) days for the Committee to respond.

ACCORDINGLY, this order is issued upon the following basis and for the following reasons:

- 1. The Governor is vested with the executive authority pursuant to Article V, Section 1 of the North Dakota Constitution; and
- 2. The State’s court-approved settlements with opioid manufacturers and distributors require the creation of an advisory committee to provide input and recommendations regarding the spending of funds received from the settlement for opioid remediation before the State can receive or spend certain settlement funds that are restricted to the use for opioid remediation.

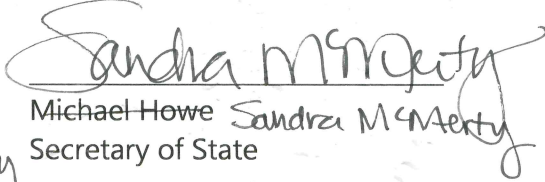
This Executive Order is effective immediately and will remain in effect until rescinded.

Executed at the State Capitol, Bismarck, North Dakota, this 6th day of January 2023.



 Doug Burgum
 Governor

ATTEST:


 Michael Howe *Sandra McMerty*
 Deputy Secretary of State