

Stewarding Opioid Settlement Funds with Transparency and Equity: An Interview with North Carolina Attorney General Josh Stein

Interview conducted by Carrie Rosario

Before the onset of the COVID-19 pandemic, North Carolina had seen encouraging reductions in opioid overdose deaths. In the years since, this trend has unfortunately reversed. In this interview, Guest Editor Carrie Rosario talks with North Carolina Attorney General Josh Stein about how the state will use settlement funds to prevent future overdose deaths.

Introduction

According to preliminary data from the North Carolina Division of Public Health, opioid overdose emergency department visits and fatal opioid overdoses rose in North Carolina during 2020 and 2021, 10% and 22%, respectively, after a brief respite in 2019 [1]. In July 2021, North Carolina Attorney General Josh Stein announced that the state would be part of a \$26 billion settlement agreement ending litigation between 46 states, three opioid distributors, and one opioid manufacturer over their role in the opioid crisis. As part of this process, a memorandum of agreement (MOA) allocates 15% of North Carolina's settlement funds to the state and requires leaders in each of the state's 100 counties and 17 municipalities to allocate the remaining 85% at the local level [2]. Funds will be allocated over 18 years based on a formula created by a national counsel [3]. The North Carolina MOA provides counties and municipalities with two options for spending opioid settlement funds. Under Option A, a local government may fund one or more evidence-based, high-impact strategies designed to treat opioid use disorder and prevent overdose, such as increasing access to approved medications for opioid use disorder and expanding harm reduction services [4]. Option B involves a multisector, collaborative planning process that a local government can undergo in order to access a wider array of strategies outlined in the national opioid settlement.

In this interview, Carrie Rosario, DrPH, associate professor in health education at the University of North Carolina at Greensboro and this issue's guest editor, interviews Attorney General Stein about the impetus for his office to focus on this issue, how this settlement might differ from others the state has reached with corporations in the past, the structure for fund distribution and resource allocation, and the role of principles of health equity in the process.

Carrie Rosario, NCMJ: From your point of view, how did we arrive at this overdose crisis, and what drove your office's desire for accountability through legal action?

Attorney General Josh Stein:

The opioid epidemic is one of the deadliest epidemics in American history, and what's especially tragic is that it happened predominantly because of corporate greed.

A number of drug manufacturers engaged in aggressive marketing to doctors, saying opioids are the most effective way to treat pain and that they're not addictive. And sadly, we know today that neither of those are true.

Because there were so many over-prescriptions, these pills were just ending up in medicine cabinets and then young people were getting their hands on them. It led to a dramatic uptick in opioid addiction. And then when folks had trouble getting access to the pills, they started using another illicit form of an opioid, which is heroin, which is fairly widely and readily available on the street. Then, heroin started being laced with illicit fentanyl that was manufactured predominantly abroad, and we started seeing a dramatic uptick in overdose deaths over the last eight or so years.

Rosario: Can you share a little bit about why you believe it was important to center the corporations' patterns of health-related behaviors specifically to prevent overdose deaths?

Stein: *To effectively confront this epidemic, it requires a holistic approach. We need efforts on prevention, we need treatment and recovery services, and we need harm reduction strat-*



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egies, but we also need accountability. And that's why I used my authority as attorney general of North Carolina to help lead the national effort of state attorneys general, Republican and Democrat, to hold the drug companies that helped to create and fuel this crisis accountable. We've achieved a \$26 billion settlement with the three largest drug distributors and with generic manufacturer Johnson & Johnson. There are other cases that we are either litigating or investigating now.

Rosario: Let's talk about the opioid settlement. How is it different from recent others? The one most might think about is the master settlement agreement with big tobacco.

Stein: One thing we learned from the tobacco master settlement agreement, which remains the largest state attorney general settlement in history, was that over the years, the dedication of the elected officials who appropriate those funds to smoking cessation and tobacco control really diminished. We want these funds to be restricted exclusively to attacking the opioid crisis, so we spent a great deal of time drafting the agreements to ensure that whichever level of government gets the money, whether it's a county government or the state government, that they have to use it to deal with the problem.

Rosario: What does this settlement actually look like in terms of fund distribution and resource allocation?

Stein: The money was allocated among the states, primarily based on which state suffered greater harm. We used a number of different metrics to come up with a formula to allocate the funds: things like the opioid overdose death rate, pill distribution numbers, survey data on addiction. We are in line to receive \$750 million over the course of the settlement term, with it being weighted toward the early years. Counties will get 85% of North Carolina's share, and the state will get 15%, but regardless of where it goes, those funds have to go to efforts like prevention or treatment and recovery services. It could be a detox center, it could be wraparound housing and employment services for people who are in recovery, it could be harm reduction services like naloxone purchases or a post-overdose response team that visits with somebody after they've had an overdose to try to engage and connect them with treatment services. It could be anything evidence-based and effective that tries to keep people alive and then help them become healthy over the long term.

The philosophy that undergirded our decision in North Carolina to give the majority of it to the local governments is because each community is different—they have different assets and different gaps, and we want to make sure they can use the funds to fill the gaps effectively to serve their population.

Rosario: Healthy North Carolina 2030 recognizes the overarching role that systems of inequity play in patterning the conditions for substance use, or the need for treatment and behavioral health services. Are you aware of any efforts that center equity in the decisions regarding the allocation and distribution of the settlement funds?

Stein: We really tied the funding to where the harm was the greatest, and I think that's a very effective way to ensure that whoever is suffering the most from this opioid epidemic—whether it's urban or rural, Black or white, old or young—whoever is experiencing it the worst will be the ones who benefit from the services.

As you know, the opioid epidemic is a little different than other drug epidemics in America's recent past, in that at least initially the people who were suffering from it were actually disproportionately white. Now it's a little bit more reflective of what the overall population is, whereas the crack epidemic in the 1980s was disproportionately urban and Black. I recognize that our responses to these two epidemics have been different; in the 1980s, it was a "lock 'em up" philosophy, and there was moral culpability to substance use disorder and the idea that these people needed to be in prison for long periods of time. I think today there is greater recognition that addiction is a disease. There's a chronic illness: substance use disorder, and you're more likely to effectively treat somebody's underlying condition using health care strategies as opposed to criminal justice responses.

We cannot discount the fact that race has played a role in changing the perspectives of policy-makers. So, what I hope is that the lessons we've learned and are applying to this drug epidemic we will remember and apply to the next one, whatever it may be, regardless of which population is most affected by it.

Rosario: Do you see any consistencies across previous settlements that might help inform future policy efforts to prevent epidemics of addiction before they occur?

Stein: I think the common thread among the various settlements that we've been involved in is accountability, which I think we can achieve in two primary ways: one is to make them pay financially for their ill-gotten gain and for the damage that they've inflicted, and two is to change the way they do business, to make sure that they don't engage in this kind of bad behavior in the future.

For instance, with the distributors, the harm that they did was failing to stop distributing drugs to communities that were awash in opioids. So, one thing we've required is the creation of an independent clearinghouse that will provide the three distributors and state regulators with data and analytics to identify when too many pills are going to a community. And then with Johnson & Johnson, they've agreed to get out of the opioid business altogether.

Now, opioids are obviously a valid medication in some instances, so we don't want all manufacturers to get out of the business. We are going to require any opioid manufacturer to have clear policies, where they engage in no promotion, no marketing of the drugs, because that was what got us into trouble in the first place. We used the exact same philosophy in our case against Juul, the e-cigarette manufacturer, for marketing to kids and hooking them on nicotine. We got a lot of money—\$40 million—which is going to help kids conquer their addiction, but we also had Juul agree to a host of business practice changes to

address marketing and sales, to much better insulate and protect kids from the reach of that product.

Rosario: In light of our Healthy North Carolina 2030 goals to prevent overdose deaths, what long-term impacts on health behavior do you foresee resulting from the work of your office to address opioids in our state?

Stein: Well, what we want to see is many fewer people dying of opioid addiction, and many fewer people addicted to opioids. And I think we can achieve those goals. We actually had made a lot of progress before the COVID-19 pandemic. In 2019, for the first time in years, the number of opioid overdose deaths in North Carolina actually declined, and it was very encouraging to know the years of hard work on prevention and on treatment and recovery were actually beginning to bear fruit. But then the pandemic hit, and all of the factors that affected the general population—*anxiety, job loss, depression*—are factors that drive drug use and addiction. We have tragically seen a spike in opioid overdose deaths these the past two years, which just underscores how critical it is that as soon as possible we begin to accelerate proven strategies that help keep people alive and then help them become healthy over the long term.

That's why I'm very excited that the first payments under the national opioid settlement should start to flow to local and state governments sometime this summer. And because of that, what I'm certain of is that there will be people alive and healthy next year who otherwise wouldn't have made it. The imperative on all of us is to do everything in our power to maximize the number of people who live their life with addiction behind them. That kind of liberation is what we want for every person struggling with addiction.

Rosario: That's really powerful. Is there anything else you think readers should know about this work?

Stein: I would say that we're now at the transition point from the hard work it took to get here, to shepherd 50 states and 4000 local jurisdictions and hold these four big companies accountable. It was years of work, and I do want to give a tip of my hat to my staff, who played an absolutely integral role in the national resolution. We're now at the next stage of effectively using these funds, and that's going to require an incredible team effort that includes the county governments and all of the health programs that they fund, the state Department of Health and Human Services, and all of the those who work in the legislature supporting initiatives that may be broader or statewide in scale.

One thing that we insisted on as part of the settlement was true transparency about the uses of these funds. There's a website that we've already created—we're the first state to put ours online: [NCopioidSettlement.org](https://www.ncopioidsettlement.org). On that webpage is going to be a report from every single county and the state on how they spent the money each year and what the impacts were. This is an opportunity for the public and your readership to be able to engage, observe, criticize, and improve the efforts of policy-makers. We want everyone's help to make sure that we are as effective in helping those with addiction as possible. NCMJ

References

1. North Carolina's Opioid and Substance Use Action Plan: Updates and Opportunities. Version 3.0. North Carolina Department of Health and Human Services; 2021. Accessed April 21, 2022. <https://www.ncdhhs.gov/media/13667/download?attachment>
2. North Carolina Association of County Commissioners. *Breaking Down the Opioid Settlement MOA*. [NCopioidSettlement.org](https://ncopioidsettlement.org); 2022. Accessed April 21, 2022. https://ncopioidsettlement.org/wp-content/uploads/2022/03/Breaking-Down-the-MOA_NCACC.pdf
3. North Carolina Opioid Settlements website. Accessed April 21, 2022. <https://ncopioidsettlement.org/about-the-settlements/>
4. North Carolina Department of Justice Office of the Attorney General. *Frequently Asked Questions on Option A Strategies in the Memorandum of Agreement On the Allocation and Use of Opioid Settlement Funds in North Carolina*. NCDNJ; April 2022. <https://ncdoj.gov/wp-content/uploads/2022/04/FAQ-on-Option-A-Strategies-April-2022.pdf>