

# SUBSTANCE ABUSE RESEARCH ALLIANCE (SARA)

GEORGIA PREVENTION PROJECT



## Recommendations for Effective Use of Georgia Opioid Settlement Resources

- A White Paper

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## Executive Summary

This white paper, developed and composed by the Substance Abuse Research Alliance (SARA) of Georgia, provides evidence-driven recommendations on how potential opioid lawsuit settlement dollars should be utilized in Georgia. This is potentially a once-in-a-generation opportunity to address the devastating impact of this epidemic on the citizens of Georgia, and Georgia's leaders must be prepared to act quickly.

In the sections that follow, this paper will outline:

-  **Scale of the opioid epidemic nationally and in Georgia**
-  **Georgia's involvement in the opioid lawsuit settlements**
-  **Opioid lawsuit settlement activity in other states**
-  **Tobacco Master Settlement Agreement (MSA) in Georgia**
-  **Constitutional structure in Georgia**
-  **Current opioid mitigation activities in Georgia**
-  **SARA's recommendations for use of opioid settlement funds**



## SARA's Key Recommendations

SARA recommends that opioid settlement funds should be used not only to compensate states and communities for expenditures related to the epidemic, but also to prevent the opioid use and misuse epidemic from continuing and possibly worsening.

**Specifically, SARA recommends following three sets of recommendations and guidelines that carry some degrees of overlap in their approaches:**

- 1 The Georgia Department of Public Health (GADPH) Multi-Stakeholder Opioid and Substance Use Response Plan (the Response Plan)
- 2 The Association of Schools and Programs of Public Health (ASPPH) recommendations of 2019
- 3 The published CDC examples of "evidence-based and promising strategies" for dealing with the epidemic.

Since 2017, the Georgia Department of Public Health (GADPH) – with input from SARA and many other organizations and agencies – has been engaged in a strategic planning process to provide a framework for meeting the challenges of the current opioid and heroin epidemic in Georgia. This process and its participants are already providing substantial guidance to state agencies and to the larger public health community and to the public. Their continuing work will also likely provide specific recommendations and implementation expertise for effective use of opioid settlement funds coming to Georgia. The first wave of any specific funding recommendations from workgroups will begin to emerge during the first half of 2022.

**To help guide the Response Plan participants and other policy makers, SARA recommends that the settlement funds should be used to:**



Improve the **collection** of evidence and epidemiological **data** on all dimensions of the opioid epidemic



**Support** primary prevention efforts



**Combat stigma**



**Fund** research



Ensure **access** to medications for opioid use disorder



**Advance** program evaluation and implementation science



**Reduce** associated harms



Ensure that **treatment** and **prevention** programs address the needs of culturally diverse populations

These recommendations align closely with the conclusions of the Association of Schools and Programs of Public Health (ASPPH) 2019 "Findings and Recommendations of the ASPPH Task Force on Public Health Initiatives to Address the Opioid Crisis".

In further support of these efforts and recommendations, the Centers for Disease Control and Prevention (CDC) has provided solid guidance, data and resources to equip and inform states to help improve opioid prescribing practices, improve linkage to care for the treatment of opioid use disorder, and prevent and reverse overdoses.

### These CDC guidelines include the following evidence-based and promising strategies:

- **Promote and support** the use of the CDC Guideline for Prescribing Opioids for Chronic Pain.
- **Improve prescribing practices** to reduce patient risk for overdose and assess Medicaid, workers' compensation programs, and state-run health plans.
- **Increase access** to evidence-based substance use disorder treatment services, including medications for opioid use disorder (MOUD)
- **Expand access** to naloxone; effective approaches include community distribution programs, co-prescription of naloxone, and equipping first responders.
- **Educate** consumers about the risks of prescription opioid misuse and the importance of discussing safer and more effective pain management with healthcare providers.
- **Help local jurisdictions** put effective practices to work in communities where substance use disorder is common.



## Scale of the opioid epidemic nationally and in Georgia

### An epidemic like no other

The numbers and statistics for the prescription and illicit opioids overdose epidemic in the United States and Georgia are alarming. Nearly 841,000 people have died since 1999 from a drug overdose. Over 70% of drug overdose deaths in 2019 involved an opioid. Opioids are substances that work in the nervous system of the body or in specific receptors in the brain to reduce the intensity of pain.

According to CDC data, overdose deaths involving opioids, including prescription opioids, heroin, and synthetic opioids (like fentanyl), have increased over six times since 1999. Recently released data by the CDC show that drug overdose deaths reached a record high of 93,331 in 2020. And, provisional data from CDC's National Center for Health Statistics indicate that there were an estimated 100,306 drug overdose deaths in the United States during 12-month period ending in April 2021, an increase of 28.5% from the 78,056 deaths during the same period the year before. While these estimates are not final, this is more than 20,000 deaths above the previous high in 2019 and the largest single-year percentage increase on record since 1999. Since 2015 the percentage of all U.S. deaths attributed to overdoses has grown from 1.9 percent to 2.8 percent, even as COVID-19 increased total deaths by more than 300,000 in 2020.

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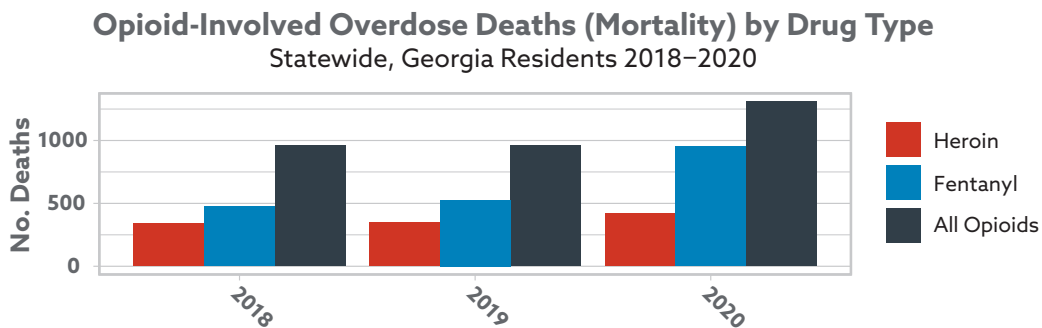
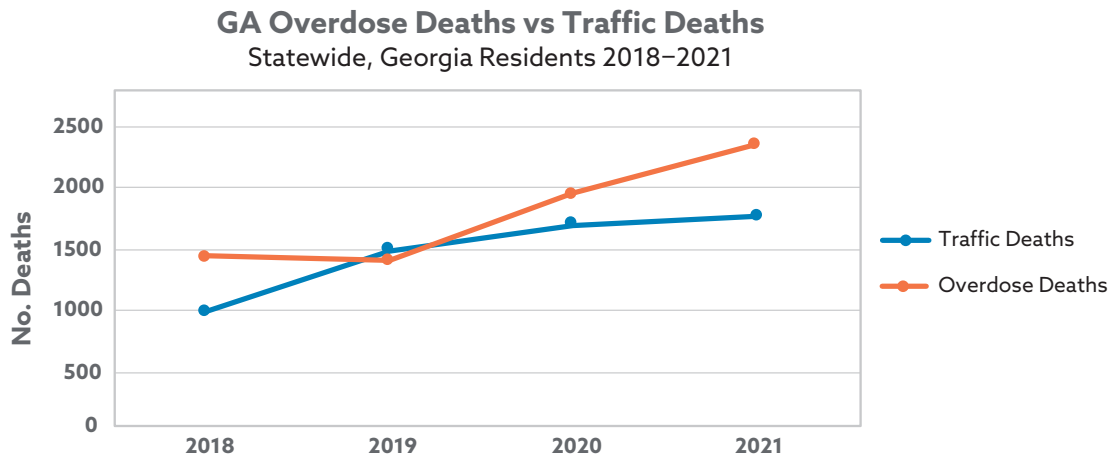
**More Americans die each year from opioid overdoses than died in any armed conflict since the end of World War II.**

**On average, 274 Americans die each day from an opioid overdose. This number has increased dramatically, even in the past year alone.**

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Sadly, Georgia experienced the same unprecedented spike in deaths in 2020. Fueled by a doubling of the number of fatalities involving fentanyl, according to data from the state Department of Public Health, opioid overdose deaths rose by 36% in 2020. **In 2020, 67% of drug overdose deaths in Georgia were related to opioids—1,309 total.**



Stimulant-related overdoses have also been increasing in Georgia; the number of stimulant-related overdose deaths rose 546% from 2010 to 2020. **In 2020, 996 deaths involved stimulants, representing 51% of all overdose deaths.**

Additionally, The CDC estimates that the total economic burden of prescription opioid misuse alone in the United States is \$78.5 billion a year, including the costs of healthcare, lost productivity, addiction treatment, and criminal justice involvement. Recent estimates suggest that the cost of the opioid crisis in the US now totals more than \$1 trillion since 2001.

Source: Florence CS, Zhou C, Luo F, Xu L. The Economic Burden of Prescription Opioid Overdose, Abuse, and Dependence in the United States, 2013. *Med Care*. 2016

The White House Council of Economic Advisers estimated the opioid crisis alone cost the United States \$696B in 2018 – or 3.4 percent of GDP – and more than \$2.5T from 2015 to 2018. In Georgia, the data are equally alarming. From 2010 to 2017, the total number of opioid-related overdose deaths increased by 245 percent. In 2017, almost two-thirds of drug overdose deaths were attributed to opioids—a total of 1,043 Georgians dead from overdose. And the COVID-19 global pandemic appears to have taken Georgia from bad to worse. **Georgia saw a nearly 65% increase in drug overdoses among those age 15-24 in 2021, and heroin-involved visits to emergency departments appear to have reached an all-time high in March of 2021.**

Source: Syndromic Surveillance Drug Overdose Emergency Department Visits: Georgia, April 2021



## Georgia's involvement in the opioid lawsuit settlements

A 2018 study by the America Action Forum found that Georgia's labor market and economy are among the hardest hit by the opioid crisis. Between 1999 and 2015, the volume of prescription opioids per capita in Georgia rose 886 percent, or about 15 percent annually. This rise in opioid use in Georgia was associated with a 2.9 percentage point decline in the state's labor force participation rate of prime-age workers, slowing annual real gross domestic product (GDP) growth by 1.2 percentage points. This negative trend has continued since 2015.

As funding is provided to the States from Federal agencies such as CDC, the Substance Abuse and Mental Health Services Administration (SAMHSA), and the Department of Justice, another significant funding opportunity is developing. Recognition that the opioid crisis has caused untold human and economic costs to the states has led more than 40 states and hundreds of local, territorial, and tribal governments to file claims seeking funds from the opioid industry to address the costs of this epidemic.

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**"It is accurate to describe the opioid epidemic as a man-made plague, twenty years in the making. The pain, death, and heartache it has wrought cannot be overstated."**

**- Hon. Dan A. Polster, District Judge  
U.S. District Court  
Northern District of Ohio**

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It is clear that billions of dollars are potentially coming to the states, but there has been relatively little discussion or public debate about the ultimate destination of settlement funds recovered by plaintiffs. In 2016, Indiana's attorney general used moneys recovered from a settlement of off-label and deceptive marketing of non-opioid drugs by pharmaceutical companies to equip first responders with naloxone. However, West Virginia, for example, used proceeds from its 2004 settlement with Purdue Pharma to fund the state's policy academy fitness center and other remodeling at the academy.





## Opioid lawsuit settlement activity in other states

### Settlement activity in other states

While most opioid-related lawsuits will be settled out of court, the case of Oklahoma v. Johnson & Johnson did proceed to a bench trial in which the court ruled that Johnson & Johnson had engaged in activities which amounted to a public nuisance under Oklahoma law. Johnson & Johnson was ordered to pay \$572 million in damages. In September 2019, Purdue Pharma, the manufacturer of OxyContin, filed for Chapter 11 bankruptcy in an attempt to resolve litigation brought against it by state and local governments, as well as individuals. As part of a proposed plan, Purdue would pay \$10 billion to various parties.

A \$26 billion settlement among thousands of state and local governments, as well as McKesson, Cardinal Health, AmerisourceBergen and Johnson & Johnson, is nearing finalization. See below for more recent information on this suit and how Georgia stands to benefit.

As of March 2021, Massachusetts is the only state to have enacted legislation creating an opioid settlement fund. New York, Virginia, Illinois, Kansas, and Kentucky are currently considering their own opioid settlement fund legislation.

### How is Georgia involved in the opioids lawsuit settlements?

In 2019, Georgia joined 29 other states to allege that drug companies perpetuated a nationwide opioid crisis and encouraged doctors to over-prescribe, leading to patients developing substance use disorder (SUD) and prescription drugs being sold on the streets. Georgia Attorney General Chris Carr, who brought the suit, said pharmaceutical companies should be held accountable for more than 1,000 opioid overdose deaths in Georgia in 2017. The statewide lawsuit against pharmaceutical distributors and a manufacturer, filed in Gwinnett County superior court, comes after about 70 cities and counties in Georgia made similar allegations in their local courts.

Attorney General Carr announced on January 7, 2022 that Georgia would join the proposed settlement agreement and that Georgia stands to receive \$636 million from the three distributors Cardinal, McKesson and AmerisourceBergen and from Johnson & Johnson, a manufacturer and marketer. Georgia remains in lawsuits against another opioid distributor and other manufacturers.

## Opioid Impact on Georgia's Workforce



**Prescription opioids per capita**  **886% or 15% annually**



**Slowing GDP growth 1.2% annually**

**Decreased 2.9% in the state's workforce participation rate of prime-age workers**



**117,800 workforce loss**

## The Tobacco Master Settlement Agreement (MSA) in Georgia

A previous example of concern about how funds from a large settlement were spent comes from the 1998 tobacco industry MSA.

### The tobacco MSA featured several different types of payment:



**Initial Payments.** Manufacturers made upfront payments in each of the first five years after the MSA's execution, or a total of about \$12.75 billion, adjusted for the volume of cigarette shipments in those years compared to the volume in 1997.



**Annual payments (made in perpetuity).** The MSA provides that the Participating Manufacturers' payments to the Settling States will continue in perpetuity. The "base amounts" of these annual payments gradually increase from 2000 to 2018 and remain at the 2018 amount in perpetuity. The amounts were \$4.5 billion in 2000, \$5.0 billion in 2001, \$6.5 billion from 2002–2003, \$8.14 billion from 2008–2017, and \$9 billion in 2018 and each subsequent year in perpetuity.



**Strategic contribution payments.** These payments serve as "bonus payments" for states that invested resources into the litigation that led to the MSA. The payments are allocated according to the percentages set forth in Exhibit U to the MSA (not included in this report), which were based on "each Settling State's contribution to the litigation or resolution of state tobacco litigation." The Participating Manufacturers' base Strategic Contribution Payment amount is \$861 million each year from 2008 to 2017, subject to the same adjustments as the annual payments.

Despite these very large payments, states spent little of the settlement money on tobacco prevention and cessation programs. Many believed this was in part because the MSA did not contain any provisions requiring states to allocate settlement revenues to tobacco prevention and cessation. As a result of decisions by state legislatures, the entities largely responsible for allocating the funds, states did not spend the money on tobacco prevention projects. In fact, between 1998 and 2017, the states received over \$126 billion in payments, yet, according to the Public Health Law Center, less than 1 percent of these funds were earmarked for state tobacco prevention programs.

Of further concern is that the percentage of MSA funds earmarked for tobacco control programs has steadily decreased over time. As of 2018, in fifteen states, funding did not exceed even 10 percent of the level recommended by the US Centers for Disease Control and Prevention.

**"Often state legislatures have used tobacco settlement payments to cover budget shortfalls or address fiscal priorities in areas other than tobacco prevention and cessation. In fact, few states have allocated more than a nominal amount of their tobacco settlement revenue to fund tobacco prevention and cessation programs, making tobacco control programs the smallest state budget category to receive MSA funds."**

- Public Health Law Center

FY 2018 MSA SPENDING		
MSA SETTLEMENT \$ TOTAL	SETTLEMENT \$ SPENT ON TOBACCO PROGRAMS DIRECTLY	AMOUNT OF \$ SPENT ON TOBACCO/SMOKING OUTSIDE CONTRACTS
\$9 billion	\$721.6 million	\$5.7 million



## How did Georgia spend funds from the tobacco MSA?

The Master Settlement Agreement has provided Georgia with more than \$3 billion through 2019. The money comes every year and amounted to \$150 million in fiscal 2019. But a shrinking share of it goes to actual cancer prevention and treatment. According to state figures recently compiled by the Georgia Center for Oncology Research & Education (CORE), just \$14.1 million of the Georgia allotment of \$151 million in fiscal 2019 went to deal with cancer, with far fewer dollars allocated to tobacco prevention. Of the more than \$3 billion in Georgia settlement dollars, only about \$800,000 of that amount was spent on discouraging tobacco use.

Currently, neither Georgia nor any other state funds tobacco control programs at the Centers for Disease Control and Prevention's "recommended" level. However, Georgia is doing better than many states in directing the funds for general health purposes, and not spending the money on non-health areas.



### Constitutional Structure in Georgia

By specific constitutional language, any "fines or forfeitures" or monetary awards from lawsuits must be deposited into the General Fund rather than into any accounts managed by individual agencies or constitutionally created offices such as the Office of the Attorney General. This means that the Georgia Legislature with input from the Governor will have ultimate control over any settlement awards resulting from opioid lawsuits.



### Current opioid mitigation activities in Georgia

#### How is Georgia currently addressing the opioids epidemic?

The Georgia Department of Public Health (DPH) Opioid & Substance Misuse Response Program engages stakeholders throughout the state to plan and implement strategies to prevent and respond to the opioid epidemic and drug overdose. The Program also maintains and enhances Georgia's Prescription Drug Monitoring Program (PDMP) and works closely with the Drug Surveillance Unit to understand and track overdose data to inform prevention and response efforts across the state.

Many private non-profit organizations perform some part of their work through contracts with DPH, DBHDD and the CDC. These organizations and other non-profits also use private-sector contributions to create and manage a variety of effective prevention and treatment programs. For example, SARA is a privately funded program of the Georgia Prevention Project.

Prior to the onset of the COVID-19 epidemic in March of 2020, Georgia had made steady progress in reducing overdose deaths in the state. Since that time, overdose deaths across all age groups in Georgia have risen by more than 20 percent on an annual basis.

## COVID-19 Impact, March 2020 – December 2021



**Georgia Overdose  
deaths** across all age groups



**20% annually**



## SARA's recommendations for utilizing the opioid settlement funds

SARA recommends that opioid settlement funds should be used not only to compensate states and communities for expenditures related to the epidemic, but also to prevent the opioid use and misuse epidemic from continuing and possibly worsening.

Specifically, SARA recommends following three sets of recommendations and guidelines that carry some degrees of overlap in their approaches: 1) the Georgia Department of Public Health (GADPH) Multi-Stakeholder Opioid and Substance Use Response Plan (the Response Plan), 2) the Association of Schools and Programs of Public Health (ASPPH) recommendations of 2019, and 3) the published CDC examples of "evidence-based and promising strategies" for dealing with the epidemic.

Since 2017, the Georgia Department of Public Health (GADPH), with input from SARA and many other organizations and agencies, has been engaged in a strategic planning process to provide a framework for meeting the challenges of the current opioid and heroin epidemic in Georgia. This process and its participants are already providing substantial guidance to state agencies and to the larger public health community and to the public. Their continuing work will also likely provide specific recommendations and implementation expertise for effective use of opioid settlement funds coming to Georgia. The first wave of any specific funding recommendations from workgroups will begin to emerge during the first half of 2022.

### The GADPH Response Plan process includes participation by more than 400 stakeholders



To help guide the Response Plan participants and other policy makers, SARA recommends that the settlement funds should be used to:



Improve the collection of evidence and epidemiological data on all dimensions of the opioid epidemic



Combat stigma



Ensure access to medications for opioid use disorder



Reduce associated harms



Support primary prevention efforts



Fund research



Advance program evaluation and implementation science, and



Ensure that treatment and prevention programs address the needs of culturally diverse populations

These recommendations align closely with the conclusions of the Association of Schools and Programs of Public Health (ASPPH) 2019 “Findings and Recommendations of the ASPPH Task Force on Public Health Initiatives to Address the Opioid Crisis”.

In further support of these efforts and recommendations, the Centers for Disease Control and Prevention (CDC) provides solid guidance, data and resources to equip and inform states to help improve opioid prescribing practices, improve linkage to care for the treatment of opioid use disorder, and prevent and reverse overdoses.

#### These CDC guidelines include the following evidence-based and “promising” strategies:

- **Promote and support** the use of the CDC Guideline for Prescribing Opioids for Chronic Pain.
  - Integrate quality improvement measures into clinical practice
  - Consider ways to increase and maximize use of prescription drug monitoring programs (PDMPs), which are among the most promising state-level interventions to improve opioid prescribing, inform clinical practice, and protect patients at risk
  - Help healthcare providers use best practices through a process called academic detailing—structured visits by trained professionals who can provide tailored training and technical assistance.
- **Improve prescribing practices** to reduce patient risk for overdose and assess Medicaid, workers’ compensation programs, and state-run health plans.
- **Increase access** to evidence-based substance use disorder treatment services, including medications for opioid use disorder (MOUD)
  - Enhance services for individuals with opioid use disorder involved in the criminal justice system. Services include targeted naloxone distribution, overdose education, and medication for opioid use disorder in jails, prisons, and other correctional settings.
- **Expand access** to naloxone; effective approaches include community distribution programs, co-prescription of naloxone, and equipping first responders.
- **Educate** consumers about the risks of prescription opioid misuse and the importance of discussing safer and more effective pain management with healthcare providers. An example of a consumer-focused effort is CDC’s Rx Awareness Campaign, which tells the stories of people whose lives were impacted by prescription opioids.
- **Help local jurisdictions** put effective practices to work in communities where substance use disorder is common.

## Summary

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The Georgia General Assembly has in its hands the opportunity to make significant progress in the effort to end the epidemic of opioid overdoses in Georgia.

When settlement dollars become available, SARA strongly recommends that all efforts be made to allocate all of these funds to collect data to measure the epidemic, promote programs to combat the stigma of substance abuse disorder, ensure access to medications to address the disorder, support programs to prevent overdose deaths, and provide the research necessary to address the opioid epidemic in Georgia.

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**Information about SARA:** The Substance Abuse Research Alliance (SARA) is a program of the Georgia Prevention Project. The more than 200 participants in SARA include representatives from all of the Georgia colleges of public health, Georgia medical schools, Georgia Department of Public Health, Georgia Department of Behavioral Health and Developmental Disabilities (DBHDD), the Office of the Attorney General of Georgia, college and university researchers across many campuses and departments, non-profit organizations focused on substance abuse prevention and/or treatment, local and statewide elected officials and any other practitioners willing to assist in the mission.

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**For a copy of the SARA White Paper, please visit the SARA website at: [www.sara-ga.org](http://www.sara-ga.org)**