

EXECUTIVE ORDER NO. 323

WHEREAS, the opioid epidemic has caused profound harm to countless New Jersey residents; and

WHEREAS, the number of suspected overdose-related deaths in New Jersey has nearly doubled from 1,587 in 2015 to 3,006 in 2018, and stayed around 3,000 for several years since that time, until decreasing to 2,892 in 2022; and

WHEREAS, New Jersey is dedicated to ending the opioid epidemic through a collaborative, inter-departmental, and data-driven strategy; with goals including increasing access to evidence-based prevention and treatment programs at the community level, supporting individuals on their path to and maintenance of recovery, reducing harm to people who use drugs and their loved ones, supporting data-driven work and strengthening system-wide infrastructure, and utilizing law enforcement to stem the supply of illicit drugs and oversee innovative programs that aim to divert individuals from the criminal justice system to public health services; and

WHEREAS, the State's approach to battling the opioid crisis must be informed by individuals and communities who have experienced it firsthand, including those who have struggled with substance use disorder and opioid use disorder, or seen their family members be impacted, and those who work in the fields of addiction treatment, prevention, and recovery; and

WHEREAS, in July 2021, I signed six bills dedicated to ending the opioid epidemic in New Jersey, including bills that expanded harm reduction efforts and established local drug overdose fatality review teams; and

WHEREAS, Johnson & Johnson and McKesson, Cardinal, and AmerisourceBergen have entered into nationwide settlement agreements relating to their role in the opioid crisis and, as part of the settlement agreements, will pay the State of New Jersey and eligible counties and municipalities a combined \$641 million over the next 18

years, which will be divided among the State and its eligible counties and municipalities; and

WHEREAS, the State has reached and may in the future reach additional national opioid litigation resolutions with other companies and individuals relating to their role in the opioid crisis; and

WHEREAS, on June 30, 2022, the Office of the Attorney General announced that the State and its counties and municipalities are expected to receive approximately \$30 million over time as a result of the bankruptcy of Mallinckrodt PLC, in connection with their opioid-related claims against the company; and

WHEREAS, on August 22, 2022, the Office of the Attorney General announced an additional nationwide settlement with Endo International PLC and its lenders, which is expected to provide some portion of a \$450 million national opioid litigation resolution to New Jersey and its counties and municipalities; and

WHEREAS, on January 11, 2023, the Attorney General announced that the State had joined national opioid litigation resolutions with pharmacy chains CVS, Walgreens, and Walmart, and drug makers Teva Pharmaceuticals and Allergan; and if those agreements become effective, subject to sufficient subdivision sign-on, New Jersey and eligible county and municipal governments stand to receive up to a combined total of approximately \$508.1 million; and

WHEREAS, funds obtained by the State in opioid settlement agreements have been and will be used to further the goals of preventing opioid misuse and overdose deaths; providing assistance, treatment, and recovery support to individuals and communities affected by the opioid crisis; developing wraparound supports and connections to care for individuals with substance and opioid use disorders; and expanding harm reduction efforts; and

WHEREAS, certain national opioid litigation resolutions require the State to designate a lead agency for purposes relating to implementation of these resolutions, such as coordination, reporting, and public disclosure of expenditures and communication with the settlement administrator; and

WHEREAS, the State launched an online portal to enable members of the public to provide recommendations on the expenditure of opioid litigation settlement funds for a 60-day comment period and may reopen the portal for public comment from time to time going forward; and

WHEREAS, on August 31, 2022, I issued Executive Order No. 305, designating the Department of Human Services ("DHS") as the lead agency for the State for purposes of directing the disbursement and allocation of the State's proceeds from national opioid litigation resolutions; monitoring the use of moneys disbursed to counties or municipalities under national opioid litigation resolutions; and performing the various reporting, compliance, and administrative functions and other obligations imposed upon the State pursuant to the terms and conditions of national opioid litigation resolutions; and

WHEREAS, Executive Order No. 305 (2022) also established in DHS the Opioid Recovery and Remediation Advisory Council (the "Advisory Council"), a wholly advisory body chaired by the Commissioner of DHS, or the Commissioner's Designee, and including the Attorney General, the Commissioner of the Department of Health, and the Commissioner of the Department of Children and Families, as well as at least ten public members; and

WHEREAS, pursuant to Executive Order No. 305 (2022), the purpose of the Advisory Council is to review proposals, data, and analysis and engage with stakeholders and community members to develop and provide recommendations on the allocation and distribution of the State's share of proceeds from national opioid litigation resolutions; and

WHEREAS, Executive Order No. 305 (2022) directed the Advisory Council to take various steps to effectuate its purpose; and

WHEREAS, on December 22, 2022, I announced the appointments of 10 public members of the Advisory Council, which has begun convening; and

WHEREAS, today, March 17, 2023, I signed Senate Bill No. 783 (Second Reprint) into law as P.L.2023, c.25, which was passed by both houses of the Legislature on February 27, 2023; and

WHEREAS, Senate Bill No. 783 (Second Reprint) creates the Opioid Recovery and Remediation Fund, into which the State Treasurer shall deposit the State's share of moneys received as a result of national opioid litigation resolutions and appropriates such funds for use; and

WHEREAS, Senate Bill No. 783 (Second Reprint) designates DHS as the lead agency for the State for purposes of directing the disbursement and allocation of the State's share of moneys allocated to or otherwise received by the State as a result of national opioid litigation resolutions; and for monitoring the use of the money disbursed to counties or municipalities under a national opioid litigation resolution or under an agreement authorized by section 3 of Senate Bill No. 783 (Second Reprint); and, in coordination with the State Comptroller and the Attorney General, ensuring that the use of such moneys complies with the purposes set forth in Senate Bill No. 783 (Second Reprint) and is consistent with the terms of the applicable national opioid litigation resolution and other applicable agreements; and

WHEREAS, Senate Bill No. 783 (Second Reprint) provides DHS with primary responsibility for ensuring that the various reporting, compliance, and administrative functions imposed upon the State are performed, and designates DHS as the single point of contact for the State for settlement fund administrators and trustees to submit requests for disbursement of settlement funds; and

WHEREAS, Senate Bill No. 783 (Second Reprint) authorizes DHS to make determinations regarding disbursement and allocation of the State's share of such proceeds in accordance with the requirements or terms of applicable agreements; and

WHEREAS, Senate Bill No. 783 (Second Reprint) also establishes in DHS an Opioid Recovery and Remediation Advisory Council, an advisory body with substantially similar functions, purposes, duties, and composition as the Opioid Recovery and Remediation Advisory Council established by Executive Order No. 305 (2022); and

WHEREAS, Senate Bill No. 783 (Second Reprint) also requires counties that are directly receiving moneys as a result of national opioid litigation resolutions to establish local advisory councils to provide input, advice, and recommendations on the disbursement of such moneys, recognizing that New Jersey has entered into a separate Memorandum of Agreement with participating counties and municipalities that requires each county to establish a county advisory council to provide input, advice, and recommendations on the disbursement of the county's share of the recovery and of the shares of its participating municipalities; and

WHEREAS, Senate Bill No. 783 (Second Reprint) imposes annual reporting requirements on DHS in connection with the expenditure of proceeds from national opioid litigation resolutions, and provides that the Advisory Council created by Senate Bill No. 783 (Second Reprint) shall disband following the issuance of a final report by DHS after all proceeds from national opioid litigation resolutions have been expended; and

WHEREAS, Senate Bill No. 783 (Second Reprint), enacted as P.L.2023, c.25, effectively codifies Executive Order No. 305 (2022) by providing statutory authority for all measures taken by Executive Order No. 305 (2022), including the designation of DHS as the lead agency for matters related to the disbursement and allocations of the State's proceeds from national opioid litigation resolutions and the

establishment of a substantively identical Opioid Recovery and Remediation Advisory Council; and

WHEREAS, the State continues to find stakeholder collaboration through an advisory council to be critical to effective distribution of proceeds from national opioid litigation resolutions at the State level, as well as at the county and municipal levels; and

WHEREAS, the State remains steadfast in its commitment to ending the opioid epidemic, supporting those affected by it and fighting it, and accomplishing these goals by distributing opioid litigation settlement funds efficiently and equitably; and

WHEREAS, Senate Bill No. 783 (Second Reprint) has rendered Executive Order No. 305 (2022) redundant;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The Opioid Recovery and Remediation Advisory Council created by Executive Order No. 305 (2022) shall be replaced by and reconstituted as, and shall continue in operation as, the Opioid Recovery and Remediation Advisory Council created by Senate Bill No. 783 (Second Reprint), enacted into law as P.L.2023, c.25.

2. All public members of, and any work undertaken by, the Opioid Recovery and Remediation Advisory Council created by Executive Order No. 305 (2022), shall carry over to the Opioid Recovery and Remediation Advisory Council created by Senate Bill No. 783 (Second Reprint).

3. Executive Order No. 305 (2022) is hereby rescinded.

4. For purposes of this Order, "national opioid litigation resolution" means: (1) a settlement agreement, entered into by the Attorney General of New Jersey on behalf of the State and by other state attorneys general on behalf of their respective states, which provides for the participation of states, counties, and

municipalities to resolve claims by the state attorneys general and counties and municipalities against opioid manufacturers, opioid distributors, or pharmacies, or persons or entities affiliated with an opioid manufacturer, opioid distributor, or pharmacy, related to the manufacture, marketing, distribution, or dispensing of opioids; or (2) a bankruptcy plan which is governed by an agreement entered into pursuant to section 3 of P.L.2023, c.25, which has received final approval, and that channels, releases, or otherwise finally disposes of such claims, including those of the State and its counties and municipalities.

5. This Order shall take effect immediately.

GIVEN, under my hand and seal this
17th day of March,
Two Thousand and Twenty-three,
and of the Independence of the
United States, the Two Hundred
and Forty-Seventh.

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor