

OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION
STATE OF NEW HAMPSHIRE
DIVISION OF HEALTH PROFESSIONS
PRESCRIPTION DRUG MONITORING PROGRAM
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UNAPPROVED DRAFT

**PRESCRIPTION DRUG MONITORING PROGRAM ADVISORY COUNCIL
PUBLIC MINUTES OF THE AUGUST 17, 2020, MEETING**

The August 17, 2020, meeting of the PDMP Advisory Council (the “Council”) convened at 3:04 p.m. via ZOOM meeting through the Office of Professional Licensing and Certification, 7 Eagle Square, Concord, New Hampshire with the following members present and eligible to vote:

Council Members Present:

Chairman David Strang, NH Medical Society
David DePiero, NH Hospital Association
Kate Frey, Governor’s Commission on Alcohol & Other Drugs
Joseph Guthrie, NH House of Representatives
Joseph Harding, NH Department of Health and Human Services
Gene Harkless, NH Board of Nursing
Richard Osborne, NH House of Representatives
Bradley Osgood, NH Police Chiefs’ Association
Claire Timbas, NH Veterinary Medical Association
Thomas Worboys, NH Attorney General’s Office

Council Members Absent:

Stephen Crawford, NH Board of Veterinary Medicine
Robert Giuda, NH Senate
Nicole Harrington, Commissioner, NH Board of Pharmacy
Daniel Potenza, NH Board of Medicine
Donna Roe, NH APRN Society – technical issues
Annika Stanley-Smith, Governor’s Commission on Alcohol & Other Drugs – technical issues
Michael Viggiano, NH State Pharmacy Associations
VACANT, NH Dental Society
VACANT, NH Board of Dental Examiners

Others in Attendance:

Michelle Ricco Jonas, Program Manager, NH PDMP
Joanie Foss, Administrative Assistant, NH PDMP
Mark Cioffi, Program Analyst, NH PDMP
Kathy Bizarro-Thunberg, Lobbyist, NH Hospital Association
Tonya Carlton, Wentworth-Douglass Hospital
Kim Fallon, Chief Forensic Investigator, NH DOJ, Office of the Chief Medical Examiner

I. Opening Statement – David Strang, Chairman.

The Chairman read a statement recommended by the Governor’s office to all State agencies, boards, commissions, etc. during the Covid-19 crisis (see attachment at the end of the minutes). At the conclusion, M. Ricco Jonas called the roll to determine those in attendance.

II. Review of Minutes.

Review of June 15, 2020, Council Minutes –

J. Harding made a motion to approve the edited version of the June minutes, which was seconded by R. Osborne. The Council voted via roll call vote (10-0-1) to approve the edited June 15, 2020, minutes. C. Timbas abstained from the vote due to not being present at the June meeting.

III. Presentation on Opiate Death Data from the Office of the Chief Medical Examiner (OCME) – Kim Fallon, Chief Forensic Investigator.

Kim Fallon presented statistics on opiate-related deaths in New Hampshire.

- Included a description of the OCME (e.g. personnel).
- RSA 611-B:11 gives them their investigative authority.
- NH ranks third nationally in opiate drug overdose deaths. When prescription opiates were last the leading cause of opiate-related death (app. 2008 – 2010), methadone was the opiate most often cited. Now it is illicit (street) fentanyl that is the number one opiate killer.

The A.C. requested that the OCME add additional information to their monthly report, to include: 1) Listing all controlled drugs (both prescription and illicit), including combinations of drugs, identified in the deceased. (In addition to various opioids, the OCME currently notes OD deaths involving methamphetamine and cocaine alone or in combination with opioids in their monthly report). 2) Identifying whether or not the deceased had a prescription for any controlled drugs going back 3 years and whether they were present at the time of death.

IV. Review of Advisory Council Member Term Limits.

Current Statutory Language: (Adopted Sept. 27, 2019, from SB 120):

- I. Members serving on the advisory council under RSA 318-B:38 on the effective date of this act
- (a) Who have served for 6 or more years, shall not be eligible to continue in office;
 - (b) Who have served between 5 and 6 years, shall be eligible to continue to serve for one additional year beyond the effective date;
 - (c) Who have served for fewer than 5 years, shall be eligible to serve for a total of 5 years.

II. Members appointed to serve on the council after the effective date of this act shall be eligible to serve only one 5-year term.

D. Strang stated that at the time SB 120 was being debated, it was explained to him that under item “c” above, the intent was “...shall be eligible to serve for a total of 5 years” (from the effective date of the legislation [Sept. 27, 2019] as the effective date governs items “a” and “b” as well). Some now think this means 5 years from the date of first participation. He stated that many involved in this legislation agreed this language was poorly written in addition to being inserted at the last minute, preventing widespread review.

Action Item – Set up a meeting with L. Courtney, D. Strang, J.D. LaVallee and M. Ricco Jonas to review this language and determine the original intent and current application.

The Council suggested that OPLC consider clearing up this language in proposed legislation this session. Rep. Osborne is interested in assisting with this, if needed. As Sen. Giuda intended to accomplish this with legislation from the last session (which did not survive the deliberative process), Chairman Strang will put him in touch with Rep. Osborne to address this issue in this current legislative session.

It was asked, if a Council member steps down before their term has expired, does a new member start a fresh term, or simply complete the prior member’s term? D. Strang explained that in his experience on other State boards, the term follows the person in the seat, such that, if someone leaves their term early, the new member would serve a new five year term, not just the remaining time from the prior representative’s term.

V. PDMP General Updates – M Ricco Jonas

- a. New Offices: The Office of Professional Licensure and Certification has moved to a new office – 7 Eagle Square, Concord, NH. The PDMP will continue to report directly to the Executive Director, Lindsey Courtney. However, the PDMP office space is on the first floor with the Division of Enforcement. This is due to space limitations and the need to ensure privacy.
- b. Staffing: Interviews were conducted for the position of PDMP Auditor. References are being checked and if satisfactory, we will offer the position. Additionally, the PDMP Health System Coordinator position attracted six applicants. PDMP staff conducted screening interviews and will be asking 3 of the 6 to return for a more formal interview. Kathy Bizzarro-Thunberg has agreed to join the PDMP staff on this round of interviews, as she has “fresh eyes” and a great understanding of electronic health systems. These interviews will be conducted this week.
- c. PDMP Request for Proposal (RFP): The vendor RFP was released on Thursday, August 6, 2020. This was posted on the Department of Administrative Services website, as well as the NH PDMP webpage. Courteous notifications were sent out to vendors who had previously participated in the PDMP Request for Information (RFI). The following is the schedule of events for the RFP: The vendor conference is being held on Wednesday, August 19, 2020 from 1:00-3:00 pm. There will be five (5) reviewers for the PDMP RFP:

- Michelle Ricco Jonas, PDMP Manager
- Rebecca Bolton, DoIT Manager
- David Strang, MD, PDMP Advisory Council Chair (Prescribing)
- Mike Viggiano, RHP, PDMP Advisory Council member (Dispensing)
- Mark Cioffi, PDMP Analyst/Joanie Foss, PDMP Administrative Asst.

SCHEDULE OF EVENTS for PDMP Request for Proposal (RFP)

The following table provides the Schedule of Events for this RFP through Governor and Council approval and Notice to Proceed.

EVENT	DATE	TIME
RFP released to Vendors (on or about)	08/05/2020	4:00 PM EDT
Vendor Inquiry Period begins (on or about)	08/05/2020	
Notification to the State of the number of representatives attending the Optional Vendor Conference	08/12/2020	
Optional Vendor Conference; location identified in Section 4.3: Vendor Conference	08/19/2020	1:00-3:00 PM EDT
Vendor Inquiry Period ends (final inquiries due)	09/02/2020	
Final State responses to vendor inquiries	09/07/2020	
Final date for proposal submission	09/18/2020	4:00 PM EDT
Invitations for oral presentations	09/25/2020	
Vendor presentations/discussion sessions/interviews, if necessary	09/29/2020 - 09/30/2020	
Anticipated Governor and Council approval	12/30/2020	
Anticipated Notice to Proceed	12/30/2020	

VI. Old Business:

a. Drug Fatality Review Board Update

As requested, D. Strang contacted David Mara (OPAC Chairman) to explain that no direct connection to the PDMP would be allowed by statute, but PDMP data obtained by the Medical Examiner’s office could be shared with the Review Board as long as the OCME follows their legislative authority. Atty. Mara was comfortable with this proposed solution.

b. E-Prescribing

As requested, D. Strang contacted Gary Merchant to explain that the DEA does not certify e-prescribing apps, but instead lists requirements and uses third party reviews to determine if specific apps qualify for use. Rep. Merchant indicated he would keep this in mind as a resubmission of this legislation is planned for this legislative session.

c. Follow up on pharmacies changing “days supply” in the PDMP data

N. Harrington asked Helen Pervanas (Board of Pharmacy President) to put this issue on their June meeting agenda. D. Strang discussed this with the Commissioners and the Board felt they could easily address this with pharmacies via a letter. The Board will communicate to pharmacists/pharmacies the need to discuss with a prescriber *first*, before making any change to the days supply, so as not to corrupt PDMP data. N. Harrington may have more information for the October meeting.

Other Items:

Legislation – OPLC/PDMP plans to support the re-submission of legislation that failed to pass in the previous legislative session. It will also consider adding Schedule V pharmaceuticals to the PDMP data that is collected. D. Strang gave some historical background as to why Schedule V’s are not currently included in the PDMP data.

J. Harding – Regarding Kim Fallon’s presentation that showed methadone as the leading cause of death for a time here in NH, he asked that the minutes reflect that he felt it was methadone prescribed for pain and not that used for treating addiction that was the issue.

VI. Next Meeting: October 19, 2020 3:00 – 5:00 PM

J. Harding motioned to adjourn the meeting at 4:37 PM. J. Guthrie seconded the motion. The Council voted unanimously to adjourn the meeting at 4:37 PM.

A Checklist To Ensure Meetings Are Compliant With The Right-to-Know Law During The State Of Emergency

(Presented at the August 17, 2020 NH PDMP Advisory Council Meeting)

As Chair of the NH PDMP Advisory Council, I am informing all present that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governor's Emergency Order #12 pursuant to Executive Order 2020-04, this public body is authorized to meet electronically.

Please note that there is no physical location to observe and listen contemporaneously to this meeting, which was authorized pursuant to the Governor's Emergency Order. However, in accordance with his Emergency Order, I am confirming that we are:

a) Providing public access to the meeting by telephone, with additional access possibilities by video or other electronic means:

We are utilizing Zoom for this electronic meeting.¹ All members of the NH PDMP Advisory Council have the ability to communicate contemporaneously during this meeting through this platform, and the public has access to contemporaneously listen and, if necessary, participate in this meeting through dialing the following: **Meeting ID: 773 348 0139; Password 600206**, or by clicking on the following **website address**:
<https://zoom.us/j/7733480139?pwd=OXEwRTBaZ0h5SWZKaHhSN0MzaXZSZz09>

b) Providing public notice of the necessary information for accessing the meeting:

We previously gave notice to the public of the necessary information for accessing the meeting, including how to access the meeting using Zoom or telephonically. Instructions have also been provided on the website of the **NH PDMP** (<https://www.oplc.nh.gov/prescription-drug-monitoring/council-meetings.htm>)

c) Providing a mechanism for the public to alert the Advisory Council during the meeting if there are problems with access:

If anybody has a problem, please **email Michelle Ricco Jonas at: Michelle.RiccoJonas@oplc.nh.gov**

d) Adjourning the meeting if the public is unable to access the meeting:

¹ Many public bodies are utilizing video teleconferencing technology, such as Zoom, to ensure the electronic meeting comply with the Right-to-Know law (RSA 91-A) and any applicable due process requirements. In certain circumstances, a regular business meeting of a public body may be conducted utilizing audio-only technology. If you have any questions about the appropriateness of the technology utilized to conduct your meeting, please consult your agency counsel or the Attorney General's Office.

In the event the public is unable to access the meeting, the meeting will be adjourned and either the problem corrected or the meeting will be rescheduled.

Please note that **all votes** that are taken during this meeting shall be done by **roll call vote**.

We will start the meeting by taking a roll call of attendees. When each member states their name, please also state whether there is anyone in the room with you during this meeting, which is required under the Right-to-Know law, also known as 91-A. Michelle, please call the roll.