

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

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APPROVED

**PRESCRIPTION DRUG MONITORING PROGRAM ADVISORY COUNCIL
PUBLIC MINUTES OF OCTOBER 21, 2019, MEETING**

The October 21, 2019, meeting of the PDMP Advisory Council (the “Council”) convened at 3:00 pm at the Office of Professional Licensing and Certification, 121 South Fruit St, Concord, NH with the following members present and eligible to vote:

Council Members Present:

Chairman David Strang, MD, NH Medical Society (NHMS)
Stephen Crawford, DVM, Board of Veterinary Medicine (BOVM) (via phone)
David DePiero, NH Hospital Association (NHHA)
Kate Frey, New Futures (Governor’s Commission on Alcohol & Drug)
Sean Gill, NH Attorney General’s Office, Dept. of Justice (DOJ)
Robert Giuda, Senator, NH Legislature
Joseph Guthrie, Representative, NH Legislature
Dennis Hannon, DDS, NH Board of Dental Examiners
Joseph Harding, NH Dept. of Health and Human Services (DHHS)
Nicole Harrington, Commissioner, NH Board of Pharmacy (BOP)
Richard Osborne, Representative, NH Legislature
Bradley Osgood, NH Police Chiefs’ Association
Donna Roe, APRN, NH APRN Society
Annika Smith-Stanley, (Governor’s Commission on Alcohol & Drug)
Claire Timbas, DVM, NH Veterinary Medical Association (NHVMA)
Michael Viggiano, NH State Pharmacy Associations

Council Members Absent:

Daniel Potenza, MD, NH Board of Medicine (BOM)
VACANT SEAT, NH Board of Nursing (BON)
VACANT SEAT, NH Dental Society

Others in Attendance:

David Grosso, OPLC Executive Director
Lindsey Courtney, OPLC Director, Division of Health Professions

Michelle Ricco Jonas, Program Manager, NH PDMP
Shirley Chen, Auditor, NH PDMP
Mark Cioffi, Analyst, NH PDMP
Joanie Foss, Administrative Assistant, NH PDMP
Jon LaVallee, Attorney General's Office (assigned attorney advisory)
Jim Giglio, TTAC (via phone)
Pat Knue, TTAC (via phone)

Jim Potter, Executive Vice President, NH Medical Society
Beth Sargent, Lobbyist, NH Pharmacy Association/NH Chief of Police Association

I. Welcome – OPLC Executive Director

D. Grosso provided an introduction to the Council members. The PDMP is the one Council that OPLC has the direct responsibility of overseeing. He welcomed both newly appointed and continuing members and acknowledged the impressive amount of subject matter, expertise & leadership/management experience amongst the members.

He explained to the Council that effective September 27, 2019, as a result of the passage of SB 120, the PDMP became the direct administrative responsibility of OPLC. The PDMP and all of its current employees have been organizationally placed under the Health Professions Division and the leadership of Division Director L. Courtney. M. Ricco Jonas remains the PDMP Manager.

D. Grosso expressed his appreciation for the stewardship of the Board of Pharmacy and the leadership in the transition from Gary Merchant BOP President and the previous Advisory Council Chair, David Strang.

The current Council members then introduced themselves and provided their backgrounds.

II. OPLC Executive Director Remarks

D. Grosso stated that the PDMP joins the 53 boards, councils and commissions that OPLC supports and oversees. Amongst a host of other requirements, SB120 specifies that the OPLC Executive Director will establish an Advisory Council, that the Council will elect a chairperson and that it will advise him regarding the operation of the PDMP. He then reviewed the specified and implied responsibilities of the Advisory Council and stated his priorities for the Council will be:

- a. Review the NH PDMP Annual Report, as it will be published by OPLC on November 1.
- b. Determine how often the Advisory Council will meet (monthly or quarterly) for the period November 2019 through June 2020. It is up to the Council to determine how often they feel they need to meet.
- c. Review and further develop the mission statement of the PDMP, develop strategic goals for its implementation and metrics to measure the program's efficiency.

- d. Make recommendations to OPLC re: the design, implementation and maintenance of the Program.
- e. Program Administrator position: SB 120 established a new Program Administrator position, yet this is not authorized or approved yet. Michelle Ricco Jonas remains as Program Manager. Other authorized staff (Joanie Foss (Administrative Assistant), Shirley Chen (Asst. Inspector/Auditor) and Mark Cioffi (Program Analyst)) also remain in place.

K. Frey asked if there was money in the budget for a separate Program Administrator position. D. Grosso replied there was no money in the budget for this and we may need to create a supplemental job description and then seek funding. It has not yet been determined if we need another position or to just transition the Program Manager to the Program Administrator position.

K. Frey stated she was not under the impression that SB 120 created a new position. D. Grosso explained that the Program Administrator position had additional responsibilities compared to that of the Program Manager. He will need to continue to review this. He expects that the Advisory Council will weigh in on this matter as well.

III. Advisory Council Member(s) Remarks

R. Giuda explained that he was the sponsor of SB 120, the main focus of which was to move the PDMP to OPLC from the Board of Pharmacy. The initial version of SB 120 contained language that would have allowed the PDMP to share data with DHHS, but this was ultimately removed and the bill focused on relocating the Program. At the last minute, language was added by the House establishing term limits, which had the effect of removing 4 of the existing 14 members of the Council. There was no Senate hearing on this and neither the BOP nor the Advisory Council were consulted prior to the addition of this amendment language. R. Giuda felt that the loss of these most senior members would gut the institutional knowledge and years of effort that have been put in by these members. Therefore, Chairman D. Strang and M. Viggiano were urged to resign their seats before the effective date of SB 120, so that they would be eligible for reappointment to the Advisory Council.

R. Giuda stated he did not think it was a good idea to change leadership of the Council at this important time as the Program transitions from the BOP to OPLC. He recommended re-appointing D. Strang as Advisory Council Chair and nominated him for that position. D. Grosso asked that he and other OPLC employees be allowed to leave the meeting during the election, so as not to influence the election process.

R. Giuda further explained that two Data Sharing Summit meetings had already been held, to discuss the potential sharing of data with DHHS. L. Courtney has been instrumental in drafting initial language. Data sharing disclosure needs to be developed so as not to negatively impact a patient's privacy.

R. Giuda added that he also serves on the Legislature's Performance Audit Review Committee which takes input from agencies, citizens, and other legislators. D. Grosso has asked that this Committee conduct a performance audit of all 53 boards and the NH PDMP in order to assist OPLC in its effectiveness.

J. Harding asked for an overview of the role of OPLC and the current role of the Advisory Council including the Chair. D. Grosso emphasized the need for leadership to help establish priorities, but deferred to D. Strang. D. Strang stated the position of Chair is important as the coordinator for all discussions. He recommends going back to monthly meetings for the near term, as the transition from the BOP to OPLC will require significant attention. He also feels the Council will need to look at the term limits issue, as this may have a further significant impact on the Council's ability to function as more members are termed off.

D. Grosso stated that as this is an advisory council, everything should be shared with the Chair and recommended approaching the Chair the way we would approach a board president. Routine PDMP business continues to go through either M. Ricco Jonas or L. Courtney. The Council will advise Executive Director Grosso.

R. Giuda stated SB 120 establishes certain jobs for the Council. It requires the Council to make recommendations on the Program rules, strategic plan, funding sources, mission statement, amongst other duties.

J. Guthrie asked what the relationship is between the Council and the Executive Director. D. Grosso replied he will look at the implied duties, but he will not be running the Council. He will always be available to the Chair, but will leave the duties of the Chair up to that person.

D. Strang explained that he felt the Council's agenda would be a cooperative venture between the Council and the Executive Director. Prior to SB 120, the Advisory Council had 14 members and therefore 8 were required for a meeting quorum. He reminded those present that there were times in the not too distant past, when not enough members were present at monthly meetings to meet this quorum. Many members traveled several hours to attend meetings and it was embarrassing to tell them their trip was for naught when quorum was not attained. With the passage of SB 120, there are now 19 Council members and thus 10 are required for quorum. Term limits may also affect the ability to convene future meetings, so (if possible) we may want to stagger members leaving the Council due to term limits.

J. Harding felt it will be important that the Chair gets a consensus of the whole Advisory Council and speak to the consensus when representing the Council. He stated there had never been a discussion re: the length of term of the Chair and he feels this should be discussed.

The public meeting was paused and a non-meeting was entered into at 3:58 pm at the request of Executive Director Grosso. The public meeting then resumed at 4:08 pm at the direction of Atty. Lindsey Courtney.

IV. Review of July 22, 2019, Advisory Council Meeting Minutes

Motion to accept by S. Gill. Second by B. Osgood. Motion carried 16-0-with 3 abstentions (J. Guthrie, D. Roe & A. Stanley-Smith as they were not members of the Council at the time of that meeting).

Additional Discussion:

- The new members would like minutes from the meetings from the last 6-12 months.
- R. Giuda asked if there had ever been a discussion or vote for an alternate (Vice) Chair in case the Chair was absent? D. Strang stated there was never an official process. During his term as Chair, if he was ever unable to attend a meeting, he would just ask another Council member to be Chair Pro-tem. Members of the Council agreed this should be a discussion at the next meeting.

V. Advisory Council Chair Election

R. Giuda nominated D. Strang for Chairman. Second by M. Viggiano.

D. Strang explained that he had been working to establish a PDMP in NH as early as 2002 and was involved with initial legislation dating back to 2004/2005. He stated he would be proud to continue to serve in the capacity of Chairman if so elected.

There being no other nominations, R. Giuda motioned to close the nominations.

Second by M. Viggiano. Motion carried 16-0. Motion to approve D. Strang as Chair carried 16-0.

VI. Proposed PDMP Legislative Changes – L. Courtney & R. Giuda

L. Courtney handed out a document containing a draft of proposed legislation (version dated 10-18-19). She explained that DHHS is requesting patient identifiable PDMP data, which they propose to combine with DHHS' patient identifiable data (aggregation), then de-identify this aggregated data for further analysis. In addition, the State was awarded a CDC grant to conduct public health studies. DHHS is the grantee and the PDMP is a sub-grantee. Part of the grant work plan is for the PDMP to give out identifiable data to the CDC and other Federal agencies. The proposed amendments to the DHHS statute would permit DHHS to receive data from OPLC/NH PDMP for public health purposes only. The data would not be subject to disclosure under 91A. DHHS would be allowed to release reports for analysis and evaluation, as long as the data was aggregated and de-identified.

L. Courtney explained this proposed legislation would give the OPLC Exec. Dir. the authority to enter into data sharing agreements with DHHS and the Council would have the ability to provide input/feedback on the process. Additionally, a change allowing the NH Health Professionals Health Program direct access via the NH Medical Society is under review.

R. Giuda then addressed the EHR integration portion of the proposed legislation. It will streamline access to the Program for users. He feels there needs to be a discussion on the potential consequences of violating data sharing. M. Ricco Jonas stated there is statutory language that talks about penalties for the inappropriate disclosure of data. R. Giuda would like OPLC to directly impose a penalty, not impose a penalty through the State's licensing boards. He favors sanctions directly from OPLC.

D. Strang then asked Attorney LaVallee if it was possible to impose direct sanctions. Attorney LaVallee stated that if the Council wants to make such a request they can, but although he is a member of the AG's office, he cannot speak on their behalf. If there was a consensus to make OPLC a law enforcement type agency, the Council could then discuss this.

R. Giuda felt the current law was not strict enough. M. Ricco Jonas stated that RSA 318:B-35 does provide specific penalties and if a data access action seems inappropriate, it could be referred to the appropriate regulatory board which would then gather the evidence needed to start their own investigation. D. Grosso felt the Boards currently have enough disciplinary jurisdiction.

VII. PDMP Draft FY 19 Annual Report – M. Ricco Jonas & L. Courtney

M. Ricco Jonas reviewed the PDMP FY 19 Annual Report and asked for questions.

M. Viggiano asked if an "acceptable" data error rate had ever been determined? M. Ricco Jonas replied that only "phase 1" had been completed and was working on phases 2 and 3. "This is base-line gathering for us. When it is put all together it will decide the true error rate, then we can determine how to reduce it going forward." She has been working with the BOP regarding errors, and with other Boards on the prescriber side.

J. Harding asked if on pages 15-20 it could be made clear that it is controlled drugs.

D. Strang stated that on page 9, there was a high number of "fatal errors" for pet prescriptions, but no similar figure for human prescriptions on the adjacent chart. He suggested using similar terms and figures for both charts to improve comparisons. M. Ricco Jonas indicated that could be done.

M. Viggiano requested that amphetamine data be added to the report to see what the rate of increase in prescribing is. M. Ricco Jonas will complete a comparison between FY18 and FY19 and will look at concurrent prescribing of benzodiazepine's and opioids as well.

D. Grosso requested that all input on the Annual Report be received by Oct. 28th.

J. Harding felt these recommended changes for the future were good, but wanted to know what could be done now, for this report.

D. DePiero would like a minimum of 30 days to review the Annual Report in the future.
D. Grosso suggested giving the A.C. 60-90 days.

A. Smith-Stanley suggested that the word abuse be changed to misuse.

Next Meeting:

- Date/Time: November 18, 2020; 3:00pm
- Location: Office of Professional Licensure and Certification

Suggested agenda items for next meeting:

Term length of Chairman

Formal plan for when the Chair is not available (e.g. election of a Vice Chair)

Further discussion of term limits and their impact on the Council.

FYI: October 26th is the DEA-sponsored National Prescription Drug Take Back Day

Adjournment:

Motion to adjourn at 5:10 pm by M. Viggiano. Second by A. Smith-Stanley. All in favor.