

APPROVED MINUTES
New Hampshire Opioid Abatement Advisory Commission
Regular Meeting
DHHS Brown Building Auditorium, 129 Pleasant St, Concord, NH
Monday, September 28 2022, 2022 at 10:00am

Attending:

Senator, Cindy **Rosenwald** (Chair)
Attorney James **Boffetti** (Designee for the Attorney General)
David **Mara** (Governor's Designee)
Representative Dennis **Acton** (House)
Seddon **Savage**, MD, (Appointed by Governor's Commission on Alcohol and Drug Prevention, Treatment and Recovery)
Emily **Rice** (Appointed by Governor's Commission on Alcohol and Drug Prevention, Treatment and Recovery)
Patrick **Tufts** (Chair of Governor's Commission on Drug and Alcohol Treatment, Prevention and Recovery)
Jason **Henry** (County Corrections Superintendent appointed by Governor)
Bianca **Monroe** (Appointed by the Attorney General)
Jennifer **Sabin** (DHHS Commissioner's Designee)
Robert **Moore** (Guest-HHS Contracts Unit)
Peter **Spanos** (County of <100k appointed by Governor)
Bobbie **Bagley** (City with 75k+ appointed by Governor)

Present via Zoom Platform:

Toni **Pappas** (County of +100k appointed by Governor)
Kevin **Rourke** (Municipal Police Chief appointed by Governor)
Edward **Sisson** (Guest-HHS Contracts Unit)
Helen **Hanks** (Commissioner, Department of Corrections)
Thomas **Velardi** (County Attorney appointed by Governor)
Benjamin **Gaetjens-Oleson** (Governor's Appointment)
Traci **Fowler** (NH Charitable Foundation)
Elizabeth **Dragon** (City with < 75k appointed by Governor)
Katja Fox (DHHS)

Guests:

Ann **Edwards** (Associate Attorney General)
Edward (Ted) **Sisson**- (DHHS Contracts Unit)
Amy **Marchildon**- (DHHS)

Public:

Susan **Almy**
Olivia **Atshar**
Theresa **Rosenberger**

Absent:

Robert **Buxton** (Municipal Fire Chief appointed by Governor)

Kathryn **Kindopp** (Governor's Appointment)

Rachel **Miller** (Treasury)

Senator Cindy Rosenwald (Chair) opened the meeting at 10:00am with a roll call of Commission members. A quorum of the Commission members physically present was established. The September 12, 2022 meeting minutes were noted as incomplete and would be voted on at the October meeting.

The first order of business was a summary of the grant applications and Jennifer Sabin advised that the commission enter into a non-public session to discuss the details of the 45 applications received. David Mara put forward a motion to enter a non-public session, seconded by Bobbie Bagley and was unanimously approved among members.

Jennifer Sabin, joined by fellow staff members Ted Sisson and Amy Marchildon from the DHHS contracts unit were present with information relative to the application process and presented a high level summary and review of the 46 applications received:

- 14 were complete
- 2 were withdrawn
- 30 were incomplete and cured for submission
- A total of 44 complete applications
- A total of \$24,753, 918 was requested
- Approximately \$6.6M funds available over the two year project period

Further details of the applications were discussed and broken down categorically:

- 44 application
- 13 were government entities
- 0 were state agencies
- 31 were nonprofit and charitable organizations.

A request from a member to have the funding amount requested by government agencies be included in the details.

Jennifer Sabin explained that applicants were allowed a multiple select option permitting applicants to choose multiple sub-categories for funding and the requests were detailed and broken down into the following categories:

- Reimbursement=7
- Statewide systems =14
- Treatment=11
- Recovery=28
- Prevention=20
- Workforce=11

The second order of business focused on the formation of a grant review subcommittee and Jennifer Sabin recommended that the commission remain in a non-public session to further discuss how to proceed with the application review process. Senator Rosenwald indicated that a non-public session would also be an opportunity to discuss the formation of a subcommittee who will be tasked with the evaluation of applications and to make recommendations.

Several members expressed their interest in being a part of the subcommittee and Senator Rosenwald conveyed her concerns to the group that it may be a conflict of interest for her and she would limit herself to voting on the recommendations. The following commission members volunteered to sit on the subcommittee:

- David Mara
- Seddon Savage
- Bobbie Bagley
- Jennifer Sabin
- James Boffetti
- Emily Rice
- Peter Spanos
- Traci Fowler
- Ben Gaetjens-Olsen

At the request of Senator Rosenwald, Bobbie Bagley consented to chair the subcommittee and informed that it would be the responsibility of the subcommittee to schedule a series of reoccurring meetings and that a central location to meet be determined.

Jennifer Sabin provided a timeline of the DHHS internal review and informed that there is a team of four staff members who are currently reviewing the 45 applications and scoring them on a pass/fail basis in the categories outlined in the RGA which are due back to the contracts unit on October 4. The scoring process utilizes consensus scoring, and although the scoring is being done independently, if there is a disagreement on an application, the group will come together collectively in order to achieve consensus. It is the expectation that the commission will meet again on or after October 17 when all of the details including name, program name, and amount of funds requested and official score would be shared. This time frame will allow for the subcommittee to get access to the full applications and move forward with the process.

A question was raised by a member on whether there would be a virtual option for the subcommittee meetings. Attorney James Boffetti responded and informed the group that the subcommittee would be held under the same rules as the commission and would need to meet a quorum. And that although in person meetings would be preferred, a virtual platform would be available.

Additionally, Traci Fowler offered that the conference room at the New Hampshire Charitable Trust Foundation would provide a centralized location for the subcommittee to hold meetings. Further, Ms. Fowler suggested the commission use the first round of the application review process as a pilot. In addition to the evaluative work, the subcommittee would also recommend future process improvements for the future grant funding.

Jennifer Sabin updated the group in response to an earlier question regarding the amount of funds requested by government agencies and reported that a total of \$24.7 million dollars was requested; \$6.8 million from government agencies, and non-profit organizations represent \$17.8 million.

A roll call vote to come out of non-public session was made with a motion put forth by David Mara and unanimously approved by members.

Senator Rosenwald provided a brief update to non-members on the Zoom platform that the commission will be forming a subcommittee to review the applications and make recommendations which will be chaired by Bobbie Bagley. Applications will be reviewed on or before October 17.

Additionally, although the subcommittee will be held under RSA 91-A, the majority of the meetings will be held in a non-public session. In follow up, the contracts unit informed members that confidentiality agreements will be distributed in form of DocuSign and the grant applications will be accessible in an online drop box for review by the commission.

The third order of business was a review of the Department of Justice recommendations on conflict of interest. Deputy Attorney General James Boffetti introduced Ann Edwards, General Counsel from the Attorney General's office who was present to discuss the legal opinion surrounding conflict of interest. A motion was put forward by Commissioner Spanos to re-enter a non-public session for discussion. A roll call vote was made and unanimously agreed upon.

Attorney Edwards facilitated the conversation surrounding the concern of a conflict of interest among members and shared the point of view from the Department of Justice which determined that individual commission members should vote on all of the applications that come before the commission with exception of those applications specifically involving your organization. Because in that case, there is direct interest, for example, either as an employer, or as a fiduciary, if you are a member of a board. The only other time to recuse yourself is when you cannot have an open and fair viewpoint on the application.

A motion to come out of non-public session was made and unanimously voted in favor among the commission members.

The fourth order of business was an update on the hiring process from Jennifer Sabin who reported that as of today's date the position has not been approved by the Division of Personnel.

The fifth order of business was an update on litigation efforts from Deputy Attorney General James Boffetti relative to settlements and distribution of funds. Attorney Boffetti expects a payment on Friday in the amount of \$5.2M which is the second payment from the distributors and informed there will be periodic payments over the next 18 years.

Further, an update relative to the Johnson & Johnson settlement was provided:

- Releases are being collected from the 47 jurisdictions, including the litigating subdivisions or the primary non-litigating subdivisions identified by the defendants.

- The deadline for the releases is Friday and once completed the releases will be submitted to the defendants and then a consent judgment will be submitted to the court for approval.
- A onetime lump sum in the amount of \$31M is anticipated although 15% will be deducted off the total and distributed to the litigating subdivisions and the balance of roughly \$27M will go into the Opioid Abatement Trust Fund.
- Settlements involving the other named distributors are expected to be resolved, and although there is no determined timeframe or amounts, the state can expect to receive payments from additional funding sources in various amounts over the years.

Jennifer Sabin advised the commission that per statute, it is necessary that the application process be reopened when there is an amount in the fund that exceeds the over threshold of \$500k. From a continuity standpoint, Ms. Sabin made a suggestion that the threshold be changed and to give consideration that lump sum and/or one time payments be managed differently than sustainable funding that is received over a number of years.

Senator Rosenwald advised that she is planning to file a Bill with the legislature to change the language specific to the threshold dollar amount and encouraged the commission to email any additional language and statutory changes to her for consideration. Senator Rosenwald added that although the Commission currently has a large membership, that she would be interested in adding a member from the public.

A date for the next meeting was undecided and members agreed that the full commission would pause for October and reconvene in early November following the first subcommittee meeting.

Bobbie Bagley confirmed that The New Hampshire Charitable Trust Foundation would be a centralized location to hold the subcommittee meetings and would coordinate with Traci Fowler.

The following agenda items would be addressed at the November meeting:

- Additional settlement funds
- Legislation
- Recommendations from the subcommittee

There was no public comment.

At the call of the Chair, the meeting adjourned at 2:27pm.

Respectfully Submitted on October 14, 2022 by Leslie A. Bartlett