

**June 2, 2020 OPIOID EPIDEMIC RESPONSE ADVISORY COUNCIL**

**WebEx**

**6pm-7pm**

**Attendance**

Members: Chair Dr. Anne Pylkas, Nicole Anderson, Dr. Heather Bell, Wendy Burt, Peter Carlson, Senator Chris Eaton, Shelly Elkington, Dana Farley, Sarah Grosshuesch, Gertrude Matemba-Mutasa, Esther Muturi, Kathy Nevins, Darin Prescott, Judge Korey Wahwassuck, Cody Wiberg for Katrina Howard, Jolene Rebertus

Absent: Representative Dave Baker, Senator Erin Koegel, Toni Napier

OERAC Facilitator: Kris Van Amber

MMB Staff: Weston Merrick

Guests: George Lewis, Juliana Milhofer, Kelly Endres, Mary McCarthy, Willie Pearl Evans

DHS Staff: Elyse Bailey, April Beachem, Boyd Brown, Kevan Edwards, Kristy Graume, Dave Greeman, Dwayne Green, Chelsea Magadance, Perry Moore, and Tara Holt

**I. Opioid Epidemic Response Fund Update**

Cody Wiberg, Executive Director of the Board of Pharmacy, provided an overview of the fund collections which is currently at \$10,625,000. He let the members know that companies are required to pay the \$250,000 fee even if they dispute the fee. As of today, three companies have paid the fee, but filed a dispute. The legal consultation the Board has received indicates the disputes are most likely without merit and thus will be denied but that could result in the manufacturers will then suing. At this time the \$750,000 that is in dispute will need to be held until the disputes are resolved. Some of the companies that owe the \$250,000 have not paid yet however the deadline for paying is not two weeks.

**II. Opioid Fund DHS Fiscal Updates**

Dave Greeman and Elyse Bailey provided an update that once the licensure and registration fees are deposited into an Opioid Epidemic Response Fund (OERF) then the direct appropriations and other obligations, one-half of the remaining amounts in the OERF are to be awarded as grants by the Opioid Epidemic Response Advisory Council (OERAC) unless otherwise appropriated by the Legislature.

The amount available to be awarded as grants in FY 2021 is unclear. The uncertainty relates to the amount of revenue that will be generated by the licensure and registration fees in FY 2020, most of which will be paid in the months of April, May and June. Initial estimates projected that approximately \$21 million per year would be generated. At this time, approximately \$9.875 million has been generated (not including receipts from manufacturers disputing the fee).

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During the 2020 legislative session, Chapter 113 was enacted that direct appropriates grants for specific purposes in FY 2021 out of the funds available to the OERAC. The purposes for the grants were selected by OERAC. The total amount granted is \$2,713,000, although if less than that amount is available, grant amounts are to be prorated. If more than \$2,713,000 is available, the additional amounts are available to be awarded by the OERAC.

Impact of Transfer to the General Fund: The original intent of DHS was to make the \$5,439,000 transfer to the General Fund at the beginning of FY 2021, using FY 2020 fee revenues. An alternative option would be for DHS to make one-half of the transfer using FY 2020 revenues and make the second half of the transfer at the end of FY 2021 using FY 2021 revenues. Partly in response to the OERAC vote at its last meeting, the Commissioner has decided to pursue the second option.

Below are tables showing the amount of funds available for grants based on different levels of fee revenue.

<b>Opioid Epidemic Response Fund Scenario with \$13 million in annual revenue</b>	
	<b>Allocation of FY 2020 Revenue in FY 2021</b>
Revenue (April-June of previous FY)	13,000
Direct Appropriation to DHS	3,907
Transfer to GF by 6/30/21	2,720
Amount available for child protection	3,187
Amount for OERAC legislative grants (Chapter 113)	2,733
Amount available for OERAC grants	454
	<b>Allocation of FY 2021 Revenue in FY 2022</b>
Revenue (April-June of previous FY)	13,000
Direct Appropriation to DHS	3,907
Transfer to GF by 6/30/21	2,720
Amount available for child protection	3,187
Amount for OERAC legislative grants (Chapter 113)	-
Amount available for OERAC grants	3,187

<b>Opioid Epidemic Response Fund Scenario with \$9.875 million in annual revenue</b>	
	<b>Allocation of FY 2020 Revenue in FY 2021</b>
Revenue (April-June of previous FY)	9,875

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Direct Appropriation to DHS	3,907
Transfer to GF by 6/30/21	2,720
Amount available for child protection	1,624
Amount for OERAC legislative grants (Chapter 113)	1,624
Amount available for OERAC grants	-
<b>Allocation of FY 2021 Revenue in FY 2022</b>	
Revenue (April-June of previous FY)	9,875
Direct Appropriation to DHS	3,907
Transfer to GF by 6/30/21	2,720
Amount available for child protection	1,624
Amount for OERAC legislative grants (Chapter 113)	-
Amount available for OERAC grants	1,624

The tables above show the amount of funding available for grants based on the amount of fee revenue generated. The amount of FY 2020 fee revenue that would be necessary to fully fund the grants allocated by the Legislature in Chapter 113 is \$12,093,000. Half of any additional amount of fee revenue would be available to be awarded as grants by the OERAC in FY 2021, based on the Request for Proposals that has been released by OERAC.

There is some risk to financing half of the transfer to the General Fund with FY 2021 revenues. If the state were to receive less revenue in FY 2021, it is possible that there would not be enough revenue to make the transfer to the General Fund, allocate direct appropriated funds for specific purposes and have anything left over for child protection and OERAC grants in FY 2022. Fee revenue in FY 2021 would have to be at least \$6,627,000 to cover the cost of the transfer and the direct appropriated amounts in FY 2022.

**III. Opioid Epidemic Funding Discussion**

Anne stated that there is not enough funding to move forward with the request for proposal with the direct appropriation language that was passed by the legislature. The council proposed to cancel the request for proposal due to inadequate funds, the motion was passed without objections and Chris Eaton abstained from the vote.

The council did note the \$13 million allocated to the child protection and if that could be utilized, however it was acknowledged that this appropriation is in the current statute without a legislative change it will remain an ongoing allocation from the Opioid Epidemic fund.

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A proposal was made that DHS utilize any remaining funds in the Opioid Epidemic fund to pay back the general fund if feasible. The motion passed without objections and Chris Eaton abstained from the vote. DHS fiscal staff will work with the legislative fiscal staff to determine if this motion is feasible.

DHS notified the council that the approximate 30 request for proposal responders would need to be notified that the Opioid Epidemic Response Advisory Council request for proposal would be cancelled due to insufficient funds.

- IV.** The council will next meet on July 17<sup>th</sup> to begin the work for the next year.