

## September 18, 2020 OPIOID EPIDEMIC RESPONSE ADVISORY COUNCIL NOTES

Microsoft Teams

9:30 am—12 pm

### Attendance

Members: Chair Dr. Anne Pylkas, Vice Chair Representative Dave Baker, Nicole Anderson, Peter Carlson, Senator Chris Eaton, Shelly Elkington, Dana Farley, Sarah Grosshuesch, Katrina Howard, Representative Erin Koegel, Gertrude Matemba-Mutasa, Toni Napier, Kathy Nevins, Darin Prescott, Jolene Rebertus,

Absent: Dr. Heather Bell, Wendy Burt, Senator Mark Koran, Esther Muturi, Judge Korey Wahwassuck

Guests: Eric Maloney, Weston Merrick, Evan Romanoff and Cody Wiberg

DHS Staff: Boyd Brown and Tara Holt

### Opioid Epidemic Council Roles Update

Dave spoke that we are upon the 1 year anniversary of the council. This summer Dave and Anne spent time discussing ways to improve the meetings, especially with technology and roles.

Anne discussed that they have spent time to review roles, committee duties and how DHS can work together so that member have a better experience. They met with DHS to discuss getting meeting minutes timely, within 7 days of the meeting, and more DHS support. Anne and Kris met prior to the meeting to organize and plan the meeting more thoughtfully.

Dave talked about making the above steps to ensure that the members and state get a return on investment they are expecting.

Gertrude reiterated DHS' commitment to meeting the council's expectation, DHS' best intention with leading the council and that we have added 3 additional staff members to help meet the council's expectations.

### Legislative Policy Workgroup Update – Representative Koegel

The workgroup met a few times and discussed the following items to bring back to the council for consensus:

- The workgroup proposes redirecting the money currently allocated to MMB to the council for flexibility in making program evaluation decisions.
- The workgroup proposes making a change to how the dollars are allocated so that the council first gets at least half of the money available, gets a percentage of the money available or a consideration for a minimum amount for the council for grant making.
- The workgroup proposes adding a Health Equity Policy Statement - add some vision and values statement to the council bylaws.

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- The workgroup proposed looking for other funding streams to fund the child support allocations to counties and tribes however due to the budget shortfall realizes this may no longer be feasible.

Kathy asked what the timeframe is for when consensus is needed by. The legislative team members answered we would need consensus by the next legislative session.

Dave discussed that in the 3-5 years he has been working on the OERAC language the child support allocations were necessary piece to getting the bill passed. The child support allocations are time limited and he doesn't think that Senator Rosen will be open to making this change.

Chris discussed that in her personal belief Senator Rosen will not be in the majority after the election – take that how you want to take that.

Erin said that it is listed as an idea that could help the council get funding to those that needed.

Darin wanted clarification if tribes are or could be added to the child support allocation. The legislative team clarified that the tribes are part of the current child support allocations.

Kathy is unsure that the group can come to consensus at this time. We did fund some things with the direct appropriations but we need to do more.

Anne discussed if the next steps should be taking today's discussion back to the policy workgroup with full recommendation or recommend as it is?

It was discussed if \$20 million is still expected to come in or if this year highlights what could happen again. But it might be good to protect what we have in the future.

The member's agreed to circle back once they heard Cody Wiberg's presentation on the Opiate Epidemic Fund.

### Attorney General Update on Federal Opioid Lawsuits

Reference the attached power point from the Attorney General's Office below



9-19\_OERAC\_Presentation.ppt

### Key takeaways

- It is expected that 85% of the settlements would flow through the council per the legislation.
- Settling companies want global peace.
- In order for the settlement to the State to be released all cities and counties need to release their opioid claims.

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- Local government participation is going to be needed in decision making of the state funds.
- Tribal negotiations are ongoing not as close to settlement as the State settlements but will be a separate funding stream.
- Minnesota settlement amount is not yet known, no terms have been inked and the settlements are fluid.

### Opioid Epidemic Response Account Update –Cody Wiberg

The final total collected during FY 20 was \$13,023,019.99. (Due to some companies making payments after July 1<sup>st</sup>, the total amount we should end up collecting is probably going to be over \$13.5 million).

The reasons that revenues were less than expected might be -

- The last fiscal note estimated that we would collect the \$250,000 fee from 17 manufacturers. However, we only collected it from 13 manufacturers (we invoiced 14 manufacturers – one only recently agreed that it must pay the fee and should be remitting payment soon, which will be counted as FY 21 revenue). We may have collected from fewer manufacturers because the number of opiate units dispensed and reported to the PMP declined by 23.34 million from 2018 to 2019. (About 14.4%). Some manufacturers near the two-million-unit threshold may have dropped below it due to decreased sales within Minnesota.
- The language passed during the 2020 Session to address the concerns of the medical gas companies appears to have reduced revenues by more than we thought it would. The fiscal note was based on communications with the companies and their trade association that indicated that they could live with the compromise worked out. However, more companies dropped their licenses than we estimated. My initial analysis indicates that revenues related to medical gas facilities decreased by \$1,025,000, rather than the \$850,000 that was projected.
- We estimated that 87 opiate manufacturers would pay the \$55,260 fee – but only 47 did so. I am having my staff conduct an analysis to determine if all opiate manufacturers who should have paid the \$55,260 fee did so.
- The biggest drop in revenue was due to the fact that a lot of drug manufacturers and wholesalers (especially wholesalers) dropped their licenses – possibly due to the increased fee. (None of the major national or regional wholesalers stopped doing business in Minnesota, so there should be no impact on the availability of prescription drugs for citizens of the state).
  - We estimated that 811 manufacturers would pay the new \$5,260 but only 730 did.
  - We estimated that 1,504 wholesalers would pay the \$5,260 fee, but only 723 did.

I believe that we will not see a big decrease in licenses dropped for FY21. However, if opiates dispensing continues to decline by around 14%, it is possible a couple of companies may fall below the 2 million unit threshold and no longer have to pay the \$250,000 fee. So, while it is hard to be precise, I think that we should collect around \$13 million again next year.

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The Board currently collects license fees from facilities April – June. Perhaps it would be better to start collecting them between January and March – so DHS would have an earlier idea of how much money will be available. If there is interest in doing that, it would be quicker for the Legislature to make the change than for the Board to engage in rule-making.

Shelly asked if the Medication Assisted Treatment exclusion language made it into the exclusions. Cody responded that it did not however he doesn't believe any manufactures that are just dispensing medication assisted treatment in Minnesota were included in the fee collection.

A question was asked about what the council should expect in terms of monetary collections for next year? Cody responded that it could be the less money, the same or more than last year.

Cody said the good news is that manufactures didn't sue the Board of Pharmacy as they had thought could be a possibility.

#### **Legislative Policy Discussion Follow up**

The question was asked if the policy recommendations from the workgroup are ready to be accepted and moved forward after the funding presentation.

The council discussed if the workgroup proposal to decide to move the MMB appropriation to the council is ready to move forward? It was clarified that the proposal would include the amount of what would be evaluated with amount of dollars available and that this would allow the council to have control over what was studied.

Weston clarified that despite the request for proposal being pulled they are currently evaluating 2 programs. Project Echo, St. Gabriel and Hennepin County, is one of the evaluations.

The council wants to be able to pinpoint needs and set direct OERAC needs with evaluations. It was clarified that \$300,000 is appropriated to MMB for evaluation until 2024. Dave added that Project ECHO has plenty of research done and doesn't need further evaluation with the OERAC dollars.

Kathy discussed that after the direct appropriations in the bill are paid out the council will continue to get less than a \$1 million dollars with the current amounts being collected by the Board of Pharmacy.

Anne said that is why we need to make changes to ensure the council gets its funding first before the other appropriations because right now everyone gets their money off the top and the council is left with the budget shortfall which was not enough to do anything with.

Dave and Erin both discussed that the council has a 40% reduction in funding than expected. The \$300,000 from MMB should be talked about and based on the grants the council funds.

It was proposed that the council should get a minimum amount or a % of the funds to work with. Dave suggested we should table it for now until after elections.

Chris is unsure what to do but is meeting with the bill authors next week.

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Anne summarized that the consensus is that the council wants to do something different. How we don't know but policy workgroup will work on that. Erin will go to research and see what suggestions they come back with.

### Health Equity Workgroup and creation of a health equity statement for the council discussion

The policy workgroup would like to propose creating a health equity statement for the council. Kris introduced the Padlet link - <https://padlet.com/rendarappa/8oto61hjhaofvig> and explained that it would be emailed out and could be worked on after the meeting.

The information will be reviewed, summarized and brought back to the council for a discussion at the next meeting.

A question was asked if a non-voting member can be on the workgroup. The council determined for this activity that non-voting members would be welcome to participate.

### Council Report

A report is due to the legislature in January from the council:

“Subd. 5.Reports.(a) The advisory council shall report annually to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance by January 31 of each year, beginning January 31, 2021. The report shall include information about the individual projects that receive grants and the overall role of the project in addressing the opioid addiction and overdose epidemic in Minnesota. The report must describe the grantees and the activities implemented, along with measurable outcomes as determined by the council in consultation with the commissioner of human services and the commissioner of management and budget. At a minimum, the report must include information about the number of individuals who received information or treatment, the outcomes the individuals achieved, and demographic information about the individuals participating in the project; an assessment of the progress toward achieving statewide access to qualified providers and comprehensive treatment and recovery services; and an update on the evaluations implemented by the commissioner of management and budget for the promising practices and theory-based projects that receive funding.”

There is an opportunity for the council to make some recommendations of the legislature on policy ideas for adoption. These can be determined at the next meeting when we refine the policy recommendations.

Tara will begin writing the report and bring it back to the council for review.

### Public Comment

None

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**Next steps and meeting wrap up**

It was discussed if a better day would work for meetings. It was determined that the best day for meetings remains Fridays.

It was determined that an October meeting was needed and because of the MEA weekend on the third weekend we will move the meeting to the 23<sup>rd</sup>.

It was discussed that the meetings need to be longer, have breaks and time for conversation.

Dave asked for clarification about when we can know how much money is available for next year's rfp? Cody responded that we are not going to know with certainty until June. He said he is open to going through the rule process to make the fees due earlier but that wouldn't change next year's collection dates. For next year we won't know how much money is available until June.

We can discuss meetings schedules and granting process at the next meeting as we are out of time today. The legislators will take the proposed timeline from next month's meeting to the legislature to discuss if changes can be made.

We will also discuss the items we didn't have time for today which include:

- Direct Appropriation Updates and State Opioid Response Grants 2020 update
- Review and define the list of policy recommendations of the council
- Policy Updates from the DHS Legislative Team
- Health equity statement further discussion