

UNAPPROVED DRAFT MINUTES

**New Hampshire Opioid Abatement Advisory Commission
Regular Meeting
DHHS Brown Building Auditorium, 129 Pleasant St, Concord, NH
Thursday, October 7, 2021 at 1:00 p.m.**

Attending:

Attorney James **Boffetti** (Designee for the Attorney General)
Rachel **Miller** (State Treasurer's Designee)
Kerrin **Rounds** (Department of Health and Human Services)
Representative Dennis **Acton** (House)
Senator Cindy **Rosenwald** (Senate)
Attorney Thomas **Velardi** (County Attorney appointed by Governor)
Jason **Henry** (County Corrections Superintendent appointed by Governor)
Toni **Pappas** (County of +100k appointed by Governor)
Bianca **Monroe** (Appointed by the Attorney General)
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)
Michael **Carignan** (Municipal Police Chief appointed by Governor)
Bobbie **Bagley** (City with 75k+ appointed by Governor).

Absent:

Patrick **Tufts** (Chair of Governor's Commission on Drug and Alcohol Treatment, Prevention and Recovery)
Peter **Spanos** (County of <100k appointed by Governor)
David **Mara** (Governor's Designee)
Robert **Buxton** (Municipal Fire Chief appointed by Governor)

Senator Rosenwald (Chair) opened the meeting at 1:06 p.m. with a roll call of Commission members. A quorum of the Commission members physically present was established.¹

The first order of business was adoption of the minutes of the September 2, 2021 meeting. There was no discussion and minutes were approved unanimously on a voice vote with two members (Commissioners Hanks and Monroe) abstaining.

The second order of business was an update on litigation efforts and developments, potential financial amounts and timing provided by Associate Attorney General James Boffetti. Attorney

¹ Eleven members constitutes a quorum pursuant to RSA 126-A:85, IV.

Boffetti updated the members present on all the major cases and settlements pending, some of which NH has joined as part of a national settlement and other litigation that NH has entered into on its own. Attorney Boffetti referenced the Attorney General's press release dated September 28, 2021 (*see attached copy of press release shared with Commission members via email*) announcing New Hampshire's intent to join a \$21 billion national opioid settlement with three major distributors. Attorney Boffetti briefed the Commission on the process of notification to subdivisions in New Hampshire that filed their own lawsuits as well as non-litigating subdivisions. It's estimated that New Hampshire would receive approximately \$115 million over 18 years if this national settlement is finalized. A February 1, 2022 trial date in Merrimack County Superior Court has been set for the State's suit against Johnson & Johnson. Litigation the State has also filed in Merrimack County Superior Court against McKesson Corporation and Cardinal Health has been stayed by court order until January 31, 2022. Additional bankruptcy proceedings and discussions are ongoing with parties related to this crisis with potential impacts to the State.

The third order of business was a summary provided by Attorney Boffetti of the proposed changes discussed at the prior meeting to the draft rules, which were handed out to those present. Commissioner Rounds shared with the Commission she had hoped the Attorney for the Department could have been present but perhaps can attend the next meeting. Senator Rosenwald inquired about the next steps in the process. On a motion made by Attorney Boffetti and seconded by Commissioner Carignan, the Commission voted unanimously to move the draft rules forward to the Joint Legislative Committee on Administrative Rules (JLCAR).

Dr. Savage noted the relationship between this Commission and the Governor's Commission on Alcohol & Other and the concern that efforts not be duplicated. There was some discussion on the intent behind the membership chosen for this Commission, including the desire to have the input of Commissioner Tufts, the Chair of the Governor's Commission on Alcohol & Other Drugs. Representative Acton suggested it might be helpful to the Commission to have knowledge of where funds are going and that possible resources for such information might be the Governor's Office and DHHS – Behavioral Health division.

The fourth order of business was an update on suggested changes to the Commission's enabling legislation, RSA 126-A:83-86. The change presented to the Commission was to replace "... 2010 ..." with the "... most recent decennial ..." census. Senator Rosenwald stated her intent to file next week with the hope that Representative Acton will sign on as well in collaboration and asked that any further changes be sent to her early next week for consideration.

Discussion arose regarding membership of the Commission, including whether or not a county nursing home was or should have representation, the value of that representation when considering the population served here. appointment that perhaps haven't been made yet, and among appointments that have been made, clarification of who is representing specific appointments. Amy Daniels shared her understanding with the Commission that Commissioner Tufts, the Chair of the Governor's Commission on Alcohol & Other Drugs had made several appointments to this Commission and she would follow up with him to clarify

those. Attorney Rice further suggested that 3 appointments were made and all 3 have been attending, however, it may not have been made clear which specific appointment each was filling. Senator Rosenwald suggested that these may not have been communicated to the Commission.

Reference was made to the possibility that counties may feel the percentage of settlement funds allocated to them pursuant to the current statute is not enough. Representative Acton stated that perhaps Representative Aron be invited to come and present to the Commission what other states are doing in the regard. Attorney Boffetti stated that the 15% share prescribed in statute was the amount negotiated between the State and the litigating subdivisions and reiterated that there is no "state share" here as all the funds go towards abatement. Furthermore, the litigating subdivisions can apply for additional funding under the 85% remaining settlement funds.

Dr. Savage asked if a standing virtual option could be made available. Commissioner Rounds stated that DHHS can facilitate that going forward. Senator Rosenwald stated that she is in favor of this option and reminded those present that a physical quorum must be present for other members to vote virtually and every vote would then need to be a roll call vote. A link will be provided in the Senate and House calendars.

Representative Acton raised the point that "prevention" is not referenced in statute and he will propose an amendment to include it in law. The question was raised as to whether there was any idea of expenses already incurred and if those amounts could potentially overwhelm funds we currently have. Commissioner Velardi added that some subdivisions have done quite a bit of work and presumably do have expenditures already incurred. Attorney Boffetti commented that he believes the intent was to look at this reimbursement question prospectively, i.e. forward looking.

The fifth order of business was an invitation for public comment made by Senator Rosenwald. No public comments were made.

The final order of business was a discussion of proposed agenda items for the next Commission meeting scheduled for January 10, 2022 from 1:00 to 3:00 p.m. Proposed agenda items discussed included: an update from the Rules subcommittee; an update on litigation and settlements; an update of possible legislative changes to pursue, presentation by DHHS on program opportunities covering all components (prevention, treatment, and recovery), and a presentation by Commissioners Henry and Hanks regarding how jails and prisons are dealing with opioids.

At the call of the Chair, the meeting adjourned at 2:20 p.m.