

**NH PDMP Advisory Council Meeting
December 18, 2017
OPLC/NH Board of Pharmacy**

Meeting Minutes

Advisory Council Members Present (all):

David Strang, MD, Chair, NH Medical Society (NHMS)
Charles Albee, DMD, NH Board of Dental Examiners
Michael Bullek, Administrator/Chief of Compliance, NH Board of Pharmacy (BOP)
David DePiero, NH Hospital Association (NHHA)
Kate Frey, New Futures
Sean Gill, NH Attorney General's Office
Joseph Harding, NH Dept. of Health and Human Services (DHHS) (arrived 3:16 p.m.)
Eric Hirschfeld, D.D.S, NH Dental Society (arrived 3:20 p.m.)
Denise Nies, Administrator, NH Board of Nursing (BON)
Bradley Osgood, NH Police Chiefs' Association
Jonathan Stewart, Community Health Institute (CHI)
David Stowe, DVM, NH Board of Veterinary Medicine
Michael Viggiano, RPh, State Pharmacy Associations
John Wheeler, MD, Board of Medicine (BOM) (arrived 3:33 p.m.)

Also Attending:

Michelle Ricco Jonas, Manager, NH PDMP
Joanie Foss, Administrative Assistant, NH PDMP
Kathy Bizarro-Thunberg, NH Hospital Association
John Drury, Farmington Police Dept. (via phone)
Jim Giglio, TTAC (via phone)
Pat Knue, TTAC (via phone)
James Potter, NH Medical Society (NHMS) (via phone)
Elizabeth Sargent, lobbyist, NHPA

The meeting began at 3:06 p.m. A quorum was present.

● **Introductions**

Special greetings were extended to Chief Brad Osgood and Atty. Sean Gill who are attending their first meeting of the Advisory Council (A.C.). Candace White-Bouchard will be the representative of the Board of Pharmacy starting at the Jan. 8, 2018 meeting. M. Bullek will be representing the BOP today in her absence.

● **Review & Approve Minutes (Public Sessions)**

October 16, 2017: Motion to accept by C. Albee. Second by D. DePiero. All in favor.
November 13, 2017: No minutes to review/approve as there was no meeting due to a lack of quorum.

C. Albee asked for clarification on when minutes were required to be posted. Per RSA Chapter 91-A, minutes must be posted no more than 5 business days after a meeting. As we only meet monthly, the initial posting will, by necessity, be draft minutes or raw notes, to be replaced by the final minutes once accepted in a subsequent meeting.

- **Review & Approve Minutes (Non-Public Sessions)**

July 2017 & August 2017 (non-sealed) & October 2017 (sealed)

Motion to accept all by C. Albee. Second by D. Stowe.

Discussion: D. Stowe asked that the minutes from July and August be amended to show that he attended in person and not by phone as is listed. All in favor.

Note: Notes taken by both the Secretary and Chairman confirm that D. Stowe was indeed present in person at the August meeting, but both recorded him as present by phone in July.

- **Review & Approve Minutes (Prior Years)**

Just prior to the August meeting, the State auditor, Steve Grady, advised the BOP that the Advisory Council members could not meet until they had completed the State Financial Disclosure Form. We were advised that until this happened, a legal quorum was not present. These forms were completed at the August meeting as requested and we were allowed to meet. At that meeting, on the guidance of the auditor and Board counsel, the A.C. approved the minutes of all prior meetings in calendar year 2017.

We have since been advised (for the first time) that the A. C. members were still not “legal” at the August 2017 meeting, as these Financial Disclosure Forms had not been received by the NH Secretary of State, which took place after the August meeting. We have therefore been advised by board counsel that we must recast the vote from the August 2017 meeting to approve the prior minutes from calendar year 2017.

Motion by C. Albee to approve all minutes from the prior meetings from July 2012 through July 2017. Second by J. Stewart. Motion passed by roll call vote as follows:

Charles Albee, Yes
Michael Bullek, Yes
Dave DePiero, Yes
Kate Frey, Yes
Sean Gill, Abstain
Joseph Harding, Yes
Eric Hirschfeld, Yes
Denise Nies, Yes
Bradley Osgood, Abstain
Jonathan Stewart, Yes
David Stowe, Abstain
David Strang, Yes
Michael Viggiano, Yes
John Wheeler, No vote, late arrival

- **Review & Approve 2018 Meeting Schedule (see attachment) (D. Strang)**

Motion to accept by C. Albee. Second by B. Osgood. Discussion ensued. The Jan. 2018 meeting will be very early (Jan. 8th) to avoid conflict with Martin Luther King Day on Jan. 15th. A meeting room at OPLC has been confirmed. All in Favor (13/13, J. Wheeler absent)

- **Completion of 2018 Financial Disclosure Statements (D. Strang)**

It is required for service on the A.C. that these forms be completed annually. We will complete the 2018 forms now in order to have them filed at the NH Secretary of State's office before we meet next on Jan. 8, 2018. All members completed the form. A form will also be sent to Candace White-Bouchard.

- **Final PDMP Performance Audit Document (M. Bullek)**

The final version of the audit was presented to the joint NH House and Senate Fiscal Committee on Friday, Dec. 15th. Copies of this 200+ page document were distributed to those members who had not yet received a copy. Although the actual discussion in the meeting was brief, the Chairman, Rep. Kurk - Weare, stated that he was very concerned about the audit findings. M. Bullek reviewed those items from the audit that require the attention of the A.C. and which are BOP compliance concerns. Discussion ensued, particularly around the auditor's claim that the PDMP needs to increase the access of law enforcement to the program. This access was expressly limited in the founding statute (SB 286, June 2012) and it was felt by all that the BOP/PDMP/AC needed to uphold that statute as written, and not pursue the auditor's goal of increased law enforcement access. Several members noted that unrestricted law enforcement access was clearly not the intent of the founding legislation.

D. Strang requested that the BOP review this lengthy document and divide up those action items relevant to the AC and, if possible, decide which sub-committee (see below) should address each concern. The Fiscal Committee has required a response by February 16, 2018 (via an Excel spreadsheet), with a timeline stating how the BOP will address these concerns, with a monthly report to follow.

On the morning of this Dec. 15th hearing, the Manchester Union Leader published a very negative article about the PDMP. In this article was quoted language, which was only used in the final version of the audit. At that time, the audit was still a protected, private document, prior to the report being accepted by the Fiscal Committee. Only once accepted by the Fiscal Committee, does it become a public document. Thus, someone with access to this final version of the audit, illegally leaked the document in breach of RSA 14:31(2). Of note, the Union Leader reporter did not contact anyone at the BOP or PDMP for their input.

D. Strang requested a formal motion to urge the BOP to request the Fiscal Committee begin a formal inquiry into who leaked the audit. Motion by C. Albee. Second by E. Hirschfeld. Discussion ensued. D. Strang emphasized the concern is that someone within State government, in violation of the law, leaked this document in an attempt to harm this program. He stated that if we do nothing in response, how can we be surprised or upset if/when it happens again. The motion passed (11 yeas with 3 abstentions [K. Frey, S. Gill, J. Harding]). M. Bullek will deliver this request to the BOP.

- **Advisory Council Membership & Duties (M. Ricco Jonas)**

M. Ricco Jonas distributed a handout which outlined the composition of the A.C. from RSA 318-B:38 (missing from this list was a representative from the NHHA). Because naturopaths are now required to use the PDMP if prescribing controlled substances, she has suggested that a representative of the NH Naturopathic Board of Examiners as well as the Nurse Practitioner Association (as they are the only class of nurse that can prescribe) be added to the A.C. This would require an amendment to the Statute that established the A.C. She will inquire of each board if they are inter-

ested in a seat on the A.C. and if so, do they have an interested member who is able to attend regularly.

The responsibility of a licensing board's representative to the A.C. was discussed. M. Ricco Jonas feels that each licensing board should have a standing item on its monthly agenda to discuss PDMP-related items (e.g. licensees in violation of registration, usage, etc.). She questioned if each board's A.C. representative should be a board member, but it was felt by those representing boards that this was not a realistic goal. One outcome of the audit is the requirement that any board that receives data from the PDMP, shows the outcome of that data analysis (e.g. license restriction, exoneration, fine, etc.).

- **New Sub-Committees Needed (M. Ricco Jonas)**

The BOP would like the A.C. to form the following sub-committees in order to address various action items from the completed audit (see handout for a description of each sub-committee's responsibilities). The BOP is required to submit a timetable to the legislature by Feb. 16th, outlining how these action items will be addressed. It will need the assistance of these sub-committees in formulating this response. M. Ricco Jonas asked in which sub-committee each member would be interested (only 1 per member is requested) and the following assignments were created:

- a. **Strategic Planning:**

- D. Strang
 - C. White-Bouchard

- b. **Policy & Procedures:**

- C. Albee
 - D. Nies
 - M. Viggiano
 - J. Wheeler

- c. **Data/Evaluation:**

- J. Harding
 - E. Hirschfeld

- d. **Legislation/Rules:**

- D. DePiero
 - K. Frey
 - S. Gill
 - B. Osgood

M. Ricco Jonas will follow up with uncommitted members: D. Stowe and J. Stewart

- **New Business:**

- a. **Election of Officers:** The BOP has proposed a new rule requiring the A.C. to elect a Chair, Vice-Chair and Secretary on an annual basis. Per M. Bullek, the A.C. does not need to elect a Treasurer. As this new rule has not yet been formally approved, no action is needed today, but Chairman Strang asked the members to consider if they would be interested in serving as one of these officers of the A.C.

- b. **Inclusion of Printed PDMP Report in the Patient Record:** D. Strang was asked to inquire of the status of printing out a PDMP report and placing it into a pa-

tient's chart. He reminded the members that the BOP issued a letter prohibiting this practice almost 2 years ago. The importance of including data in a medical record to substantiate diagnoses and treatment was briefly discussed and once again emphasized. A remedy to permit this practice has gone through JLCAR and is awaiting final BOP approval. The BOP is also waiting for JLCAR to approve a form. It is hoped that this will be completed at the January BOP meeting. K. Bizarro-Thunberg stated that this was the number one topic on which the NHHA receives calls on a regular basis. She requested that once this measure was approved, a formal letter from the BOP go out to all prescribers and dispensers (as was done before, prohibiting the practice), stating that the practice is now allowed.

c. E-prescribing: G. Merchant (BOP President) has asked the A.C. for its thoughts on e-prescribing. D. Strang suggested that we should first learn what type of cyber-technology exists to prevent e-prescribing fraud. He is aware that there are software programs that use special access codes that change daily. He has also learned that NY has used e-prescribing for many years now. It was mentioned that any e-prescribing software must first be approved by the DEA before it is cleared for use. J. Wheeler's facility uses e-prescribing exclusively and finds it to be very helpful. He stated the access/permit codes change by the minute to prevent unauthorized use. M. Ricco Jonas has access to a NY presentation on this topic and will forward it to the A.C. members for their review. D. Strang will also contact J. Giglio and P. Knue from TTAC (already disconnected from the meeting) to ask what States use e-prescribing and what have been the positive/negative consequences (e.g. has e-prescribing reduced/eliminated paper prescription fraud). He will report back on this at the January meeting.

- **Old Business**

None brought forward

- **Items of Interest**

None brought forward

- **Next Meeting:**

Date/Time: Jan. 8, 2018; 3:00 p.m.

(*Note: This is the 2nd Monday of the month due to the State holiday on the 3rd Monday, Jan. 15th)

Location: Office of Professional Licensure and Certification

- **Adjournment**

Motion to adjourn at 5:33 p.m. by C. Albee. Second by E. Hirschfeld. All in favor.

Respectfully submitted,



David E. Strang, MD
Chairman