



New York State Opioid Settlement Fund Advisory Board

Bylaws

Article I: Purpose, Responsibilities and Duties

Section 1. The Opioid Settlement Fund Advisory Board (hereinafter the Board) is established under the Office of Addiction Services and Supports (OASAS) pursuant to section 25.18 of the mental hygiene law to provide recommendations to the Governor and the Legislature on how funding received by the opioid settlement fund shall be allocated.

Section 2. Recommendations of the Board shall be evidence-based and may take into consideration federal, state, or local initiatives and activities that have shown to be effective in preventing and treating substance use disorders as well as maintaining recovery and assisting with the collateral effects of substance use disorders for individuals and their families.

Section 3. Such recommendations shall take into account any gaps in access to services or programs identified as eligible expenditures and incorporate mechanisms for measurable outcomes for determining the effectiveness of funds expended.

Section 4. On or about November 1st of each calendar year, beginning in 2022, the Board, with the assistance of the Executive Secretary, shall provide their recommendations for how such funds shall be appropriated, consistent with mental hygiene law and the terms of the opioid settlement agreements, by a written report to the following:

- (a) The Governor;
- (b) The Temporary President of the Senate;
- (c) The Speaker of the Assembly;
- (d) The Chair of the Senate Finance Committee;
- (e) The Chair of the Assembly Ways and Means Committee;
- (f) The Chair of the Senate Alcoholism and Substance Abuse Committee; and,
- (g) The Chair of the Assembly Alcoholism and Drug Abuse Committee.

Section 5. OASAS shall appoint at least one staff person to serve as the Executive Secretary of the Board.

Article II: Membership and Officers of the Board

Section 1. The Board shall consist of twenty-one (21) members as follows:

- (a) The Commissioner of the OASAS, the Commissioner of the Office of Mental Health (OMH), the Commissioner of the Department of Health (DOH), and the Director of the Division of the Budget (DOB), or their designee(s);
- (b) Two appointments by the Governor;
- (c) Three appointments by the temporary president of the Senate;
- (d) Three appointments by the speaker of the Assembly;
- (e) One appointment by the Attorney General;
- (f) Seven appointments from a list of nominees submitted by the association of counties and selected as follows:
 - i. Three from the governor;
 - ii. one from the temporary president of the senate;
 - iii. one from the speaker of the assembly;
 - iv. one from the minority leader of the senate;
 - v. one from the minority leader of the assembly.

Section 2. Each member shall be appointed to serve a three-year term. Any vacancy shall be filled in the manner of the original appointment for the remainder of the term.

Section 3. The officers of the Board shall be a Chair and a Vice Chair. The Chair and Vice-Chair shall be elected by a simple majority from among the members of the Board constituting a quorum by the members of the Board.

Section 4. The Officers of the Board shall perform the duties ordinarily associated with their respective offices.

Section 5. The appointed members, commissioners and director shall receive no compensation for their services but shall be reimbursed their actual and necessary expenses incurred in the performance of their duties.

Section 6. Every effort shall be made to ensure a balanced and diverse Board, representing the geographic regions and racial and ethnic demographics of the state as well as those with lived experience. Meetings of the Board shall be conducted in accordance with the federal Americans with Disabilities Act.

- (a) **Annually the board will assess the balance and diversity of the board and make recommendations to meet said goal.**
- (b) **All efforts will be made to ensure adequate access for attendance to the board meeting including the option to attend any board meeting via videoconferencing; consistent with §103-a of the Public Officers Law.**

Section 7. Each duly appointed member of the Board shall be expected to carry out all duties of membership until they resign or a successor has been appointed after the expiration of said member's term.

Section 8. The Chair shall supervise the Board’s work and ensure the efficient operation of the Board. The Chair may consult with Robert’s Rules of Order on operational questions, to the extent such rules are consistent with State law. Unless otherwise provided by the Board, the Chair shall have the power to represent the Board before the Governor, the Legislature, or public authorities.

Section 9. In the absence or disability of the Chair, the Vice Chair shall perform the duties of the Chair. In the absence of the Chair and Vice Chair from any meeting, the Board may elect one of its members to preside during such absence.

Section 10. The Chair, Vice-Chair and Executive Secretary shall be responsible for ensuring that all votes on Board recommendations are conducted consistent with these bylaws; New York State laws, rules and regulations; and the terms of the opioid settlement agreements.

Article III. Meetings of the Board

Section 1. The Board shall meet at least quarterly in each full calendar year.

- (a) Based upon the discretion of the Chair and in compliance with the Open Meetings Law, it is expected that board meetings will be planned out at least one quarter in advance in order to accommodate the goal of having a balanced and diverse board and make it possible for board members to attend the meetings in person.

Section 2. Meetings of the Board shall be noticed and conducted in accordance with the requirements of the Open Meetings Law as set forth in Article 7 of the Public Officers Law. Minutes shall be taken at all open meetings of the Board, which minutes shall consist of a record or summary of all motions, proposals, resolutions, and any other matter formally voted upon and the vote thereon. At the start of each meeting, the minutes from the previous meeting shall be considered by the Board for formal approval, with corrections and clarifications to be noted and incorporated.

Section 3. A majority of the voting members of the Board shall constitute a quorum.

Section 4. The Executive Secretary shall notify each member of the Board by sending notice to each member at least ten days before any meeting, if possible. Board members shall designate a regular mail address and/or an electronic mail address for the receipt of Board notices. **Materials may include:**

- (a) A video invite to help ensure that all board members can attend the meeting consistent with §103 of the Public Officers law.
- (b) Minutes of the previous board meeting.
- (c) Agenda.
- (d) Approved/ expected absences.
- (e) Guests expected to present or take part in the meeting to include but not limited to. other officials within organizations for ex: General Counsel(s).
- (f) Designee(s) for officials.

- (g) Presentations with included PDF's or PowerPoints of the presentation.
- (h) Financial reports.
- (i) Other materials as requested by the board.

Section 5. Except as otherwise provided in these Bylaws, in the event that urgent questions requiring action by the Board should develop between meetings, such questions shall be transmitted by the Chair of the Board to the Board members for their individual response, and the majority decision shall be formally adopted at the next regular meeting at which a quorum is present.

Section 6. All recommendations submitted by members of the Board shall be on a form developed by OASAS. All recommendations made by Board members shall be adopted as recommendations of the Board, with a vote taken to indicate the level of support for each recommendation, consistent with the terms of the opioid settlement agreements. For each recommendation, the record and final report of recommendations shall identify the number of votes in active support, support with reservations, willingness to abide by the decision of others, opposition, and abstention for each recommendation. Each abstention, including an abstention required because of a conflict of interest under Article IV, shall be counted as a vote for the purpose of establishing a quorum. Members present at a meeting shall indicate their vote or shall be recorded as abstaining. The normal method of voting shall be by raising a hand. If the Chair or any other member expresses a doubt about the outcome of a vote, the vote shall be verified. To verify a vote, a roll call shall be done with each member indicating their vote. On the request of any member of the Board, a roll call vote shall be taken and entered in the minutes.

Section 7. As outlined in the Opioid Settlement Fund Advisory Board (OSFAB) Charter, annually the board will develop/modify a framework for recommendations which will be used by all who submit recommendations and will accompany the form developed by OASAS.

Section 8. As outlined in the (OSFAB) Charter, annually the board will develop/modify a rubric of estimated funding allotments for each of the allowable uses within the overlay of a public health lens. Both the framework and rubric will need to be approved by the board before recommendations (that must meet the above criteria) will be assessed by the board.

Section 9. Recommendations on approved uses.

- (a) The Board may make recommendations on the addition or removal of approved uses, as currently defined in the various opioid settlement agreements, in response to the changing substance use disorder needs in the state.
- (b) Recommendations on the removal of an approved use on expenditure of opioid settlement funding shall require three-fourths (3/4) approval of present Board members.

Section 10. Board members are expected to attend all Board meetings.

- (a) If a member of the Board is not able to attend a meeting, they shall give the Chair or Executive Secretary at least twenty-four (24) hours prior notice, except in case of an emergency in which case notice shall be provided as soon as practicable. The

Executive Secretary shall note in the minutes of the meeting all members that are not in attendance at the meeting but have provided proper notice that they would be unable to attend.

- (b) If a member of the Board fails to attend three (3) consecutive regular meetings of the Board, unless such absence is for good cause and is excused by the Chair, the member's seat on the Board may be deemed vacant for purposes of nomination and appointment of a successor.

Section 11. Upon adoption of these by-laws and consistent with Article 7 of Public Officers Laws, one or more members of the Board may participate in any meeting of the Board by means of videoconference where an illness, disability, caregiving responsibility or other significant and unexpected factor or event precludes physical attendance. All persons participating in the meeting by videoconference must be able to hear and see each other at the same time. Participation by such means shall constitute presence in person at such meeting.

Section 12. The Board shall allow participation of members of the public in Board meetings during the public participation portion of the meeting.

Article IV. Code of Ethics and Conflicts of Interest

Section 1. Code of Ethics

(a) Members of the Board shall not take any action to recommend funding from the opioid settlement fund to any entity in which they or their family members have any interest, direct or indirect, or receive any commission or profit whatsoever, direct or indirect. Members of the Board shall recuse themselves from any discussion or vote relating to such interest.

(b) Members should exercise their duties and responsibilities as Board members in the public interest of the inhabitants of the state, regardless of their affiliation with, or relationship to, any facility, agency or program, category of provider, or interest group.

(c) The standards which should guide the conduct of Board members are set forth in Public Officers Law Section 74. If a Board member is uncertain as to the application of the Code of Ethics, the Public Officers Law or any of the provisions of this Article IV, they should seek advice from the Chair or Executive Secretary.

Section 2. Prior to the first meeting of the Board in each calendar year, and throughout the year if needed to update information and keep the Board current, each member shall submit to the Executive Secretary a written statement on a form provided identifying each agency or facility licensed, certified, funded or otherwise authorized by OASAS, OMH or DOH or service which would be included within the definition of "eligible expenditures" under Mental Hygiene

Law §25.18 in which they or a member of their family has an interest, financial or otherwise, whether as owner, officer, director, fiduciary employee, consultant or supplier of goods or services. For purposes of this Article, "family member" shall mean any person living in the same household as the individual and any person who is a direct relative of that individual's grandparents or the spouse of such relative. Such materials shall be reviewed by the Chair and Vice Chair and a record of such conflicts maintained by the Executive Secretary.

Section 3. Absolute Disqualification. When a Board member or a member of their family has an interest, financial or otherwise, whether as owner, officer, director, fiduciary employee, consultant or supplier of goods or services, to or in a program, agency or facility licensed, certified, funded or otherwise authorized by OASAS, OMH or DOH, or service which would be included within the definition of "eligible expenditures" under Mental Hygiene Law §25.18, which program, agency or facility has a recommendation for funding pending before the Board for consideration, that member shall be deemed to have a conflict of interest and shall:

(a) promptly identify such interest to the Board at any such meeting;

(b) refrain from any action or discussion that could reasonably be interpreted as an attempt to influence the vote or recommendation of a Board member or OASAS, OMH, DOH or DOB staff at any time prior to or at any Board meeting at which the recommendation is to be considered, provided, however, that such member may remain in the meeting and may only answer questions directed to that member by another member of the Board; and,

(c) not participate in any vote of the Board on that recommendation.

Section 4. Disclosure and Possible Disqualification. When a Board member or a member of their family has an interest, financial or otherwise, or when a Board member or a member of their family has an interest or association that might reasonably be construed to raise an appearance of conflict of interest, they shall, at the time of formal consideration of such recommendation and prior to any discussion with regard thereto, disclose such interest or association. A Board member who so discloses may elect to abstain from discussion or vote with respect to such recommendation and shall so state for the record immediately after their disclosure of interest.

Section 5. Prior to discussion or vote on a recommendation, the Board members shall disclose all actual or potential conflicts and, when appropriate, explain the conflicts. When a member does not disclose an actual or potential conflict, the Chair may remind such member of any known actual or potential conflict of interest. The Chair may also, at their discretion, request members to disclose any conversation or correspondence they have had with other Board members regarding the recommendation.

Section 6. The minutes of each meeting of the Board shall reflect all disclosures, discussions, votes, and abstentions regarding conflicts of interest.

Section 7. Failure to disclose a conflict or abide by a disqualification. Where a member fails to disclose an actual or possible conflict or abide by a disqualification as required under Mental Hygiene Law section 25.18 and these By-laws, such recommendation or vote shall be

invalidated and recounted as an abstention. Where there is a question as to whether an actual or possible conflict exists, the Chair shall decide on any conflict discovered. The Chair may, at their discretion, review any potential conflict or disqualification with the OASAS Ethics Officer.

Article V. Office of the Board – Executive Secretary

Section 1. The official headquarters of the Board, at which the official copy of its minutes, records, documents, and other materials shall be kept, shall be the OASAS.

Section 2. The Executive Secretary shall be responsible for maintaining all minutes, records, documents, and other materials of the Board and shall make access available to all materials to all members of the Board during regular business hours.

Section 3. The Executive Secretary shall prepare the minutes of each meeting as soon as practicable following each meeting and shall send a copy of said minutes to each member of the Board as soon as practicable. The minutes, as approved or corrected by the Board, shall serve as the legal and public record of a meeting of the Board.

Section 4. The Executive Secretary shall maintain copies of the current annual statement submitted by each Board member in accordance with Article IV hereof which reflects their interests and those of their relatives and a copy of the current list of all Board members that indicates the manner of appointment of said member.

Section 5. Whenever the Executive Secretary is absent from OASAS, another staff member shall be designated to be in charge of all materials of the Board.

Section 6. In collaboration with the Chair, the Executive Secretary shall prepare and send official notice of recommendations to the Board and to the Governor and Legislature in accordance with the provisions in the mental hygiene law.

Section 7. In collaboration with the Chair, the Executive Secretary shall administer the daily business of the Board and shall work with the Public Officer of OASAS in making available records requested under the Freedom of Information Law and in making announcements to the media and public of scheduled meetings as required by the Open Meetings Law, and shall otherwise act as the official representative of the Board.

Section 8. In collaboration with the Chair, the Executive Secretary shall coordinate and provide notice of Board meetings consistent with Article 7 of Public Officers law and perform such other duties as are customarily attached to that office.

Article VI. Amendment of the Bylaws

These bylaws may be amended by the affirmative vote of a majority of the members of the Board at any regular or special meeting, provided that notice of the proposed amendment and a copy of the proposed amendment has been sent by the Executive Secretary to each member of the Board at least thirty (30) days prior to the meeting.