

**TITLE 75. ATTORNEY GENERAL
CHAPTER 40. OPIOID ABATEMENT BOARD**

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 1. General Provisions [NEW]

75:40-1-1 through 75:40-1-2 [NEW]

Subchapter 2. Political Subdivisions Opioid Abatement Grants
[NEW]

75:40-2-1 through 75:40-2-5 [NEW]

AUTHORITY:

Political Subdivisions Opioid Abatement Grants Act, 74 O.S. 2021, §§ 30.1-30.8, specifically § 30.7(G); Oklahoma Opioid Abatement Board.

ADOPTION:

October 18, 2022

EFFECTIVE:

Immediately upon Governor's approval

EXPIRATION:

Effective through September 14, 2023, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY RULES:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The promulgation of these emergency rules is necessary to protect the public health, safety or welfare and to avoid serious prejudice to the public interest. See 75 O.S. 2021, § 253(A)(1) (a) and (e).

GIST/ANALYSIS:

The Oklahoma Opioid Abatement Board proposes these emergency rules to fulfill the requirements of the Board under the Political Subdivisions Opioid Abatement Grants Act, 74 O.S. 2021, §§ 30.1-30.8. The proposed emergency rules set forth a process for political subdivisions to apply for and receive opioid grant awards or other amounts as may be agreed to by a legal settlement for the abatement of opioid-related costs to the State of Oklahoma and its political subdivisions. They also specify what required documentation that political subdivisions must submit to demonstrate approval for seeking opioid funds from the Board. Additionally, the rules include an appeals process; requirements for merger or dissolution; reporting requirements and processes; subsequent applications for grant money; and procedures for recipients who spend the opioid grant awards on or for non-approved purposes. Finally, the rules set forth a table for weighing

statutory factors for the distribution of opioid funds to political subdivisions.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(F):

SUBCHAPTER 1. GENERAL PROVISIONS

75:40-1-1. Purpose

This chapter sets forth rules, including standards and criteria, for, and operations and distributions of, the Opioid Abatement Board created by the Political Subdivisions Opioid Abatement Grants Act (74 O.S. §§ 30.3-30.8).

75:40-1-2. Definitions

The following words or terms, when used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Applicant" means any eligible participant that has submitted an application for an opioid grant award to the Board.

"Application" means the Opioid Abatement Grant Application approved by the Board.

"Approved Purpose" or **"Approved Purposes"** means the same as 74 O.S. § 30.5(1).

"Board" means the Oklahoma Opioid Abatement Board established by 74 O.S. § 30.7.

"Contract" means the agreement between the Board and a Recipient setting forth responsibilities of Recipients regarding the use of opioid grant award funds.

"Eligible participant" means the same as 74 O.S. § 30.5(3).

"Form" means Opioid Abatement Grant Award Quarterly Reporting Form approved by the Board.

"Nonapproved purpose" or **"Nonapproved purposes"** means the same as 74 O.S. § 30.5(4).

"Opioid funds" means the same as 74 O.S. § 30.5(5).

"Opioid grant awards" means the same as 74 O.S. § 30.5(6).

"Recipient" means any eligible participant that has applied for and received an opioid grant award disbursement.

"Revolving Fund" means the Oklahoma Opioid Abatement Revolving Fund established under 74 O.S. § 30.6.

SUBCHAPTER 2. POLITICAL SUBDIVISIONS OPIOID ABATEMENT GRANTS

75:40-2-1. Opioid grant award process

(a) The Board shall provide the Application on the Office of the Attorney General's website. A completed application shall be returned to the Office of the Attorney General via mail or by electronic means as determined by the Office of the Attorney General.

(b) Applications will be reviewed by the Board, which will allocate funds based on requirements listed under the Political Subdivisions Opioid Abatement Grants Act (74 O.S. §§ 30.3-30.8) and Section 3 of this Subchapter.

(c) Approved applicants shall sign and return the Application to the Office of the Attorney General by mail or by electronic means as determined by the Office of the Attorney General. The Application shall be created by the Office of the Attorney General and approved by the Board. The Application shall be sent to applicants from the Office of the Attorney General by mail or by electronic means as determined by the Office of the Attorney General following Board approval of a disbursement or other opioid grant award.

(d) If an applicant wishes to appeal a grant disbursement decision of the Board, the applicant may appeal in writing to the Board within twenty (20) days of notification of a grant disbursement decision. An applicant will be granted a hearing in front of the Board. The Board may limit the amount of time for argument from both the appealing applicant and the Board staff. The hearing shall be recorded and any oral or written testimony must be given under oath. After the hearing, the Board may amend or affirm their original decision in writing. The decision of the Board following the hearing will be final and non-reviewable.

75:40-2-2. Opioid grant award restrictions and requirements

(a) Prior to utilizing or expending opioid grant award proceeds, such utilization or expenditure must be memorialized in a resolution or equivalent government action adopted by the political subdivision and submitted to the Board. Required documentation evincing such government action may include, but is not limited to, the following:

(1) A resolution, as allowed by law, adopted through a publicly cast and recorded vote;

(2) An ordinance, or its equivalent, that has been approved through a publicly cast and recorded vote; or

(3) An abatement plan or budget that has been approved through a publicly cast and recorded vote.

(b) All approved purposes listed in an Applicant's Application and Form shall relate to strategies, programming and services occurred on or after January 1, 2006, to be eligible for opioid grant award funding.

(c) For an Applicant to receive a grant award, the Board may,

subject to terms under any settlement agreement related to the opioid pharmaceutical supply chain, require an applicant to execute a release of claims on a form created and approved by the Attorney General. The release form shall be included in the Application.

(d) In the event a recipient merges, dissolves or ceases to exist as described under 74 O.S. § 30.8(C), the recipient must give notice to the Board and the Office of the Attorney General of the following:

- (1) The amount of any remaining allocations of an awarded opioid grant award in excess of Five Hundred Dollars (\$500.00);
- (2) The name of the successor recipient;
- (3) Point of contact information for the successor recipient; and
- (4) A final reporting form of expenditures prior to the merger, dissolution, or permanent closure.

(e) Any successor recipient shall meet the requirements to be a recipient prior to receiving the balance of the grant award disbursement.

75:40-2-3. Disbursement process

(a) The Board shall conduct disbursement of opioid grant awards from the Revolving Fund.

(b) Such opioid grant awards shall be awarded amongst the different Applicants based on the following criteria:

- (1) the number of people per capita suffering from opioid use disorder in the participating political subdivision, or in the absence of such information, the opioid prescription rate in the political subdivision compared to the national average opioid prescription rate;
- (2) the number of opioid overdose deaths in the participating political subdivision;
- (3) the amount of opioids distributed within the participating political subdivision; and
- (4) the amount of attorney fees and allowable expenses associated with legal services agreements directly related to opioid litigation incurred as part of legal services agreements entered into before May 21, 2020.

(c) Disbursement from the Revolving Fund shall be computed using the table set forth in Appendix A to these rules, factoring in the above criteria, to compute the final grant award amounts for applicants. To the extent that any of the criteria are allocated by another manner or process, Appendix A is deemed satisfactory for determining the weight of each criterion.

(d) Applicants wishing to participate in the disbursement process shall provide the criteria data points as requested in the

Political Subdivisions Opioid Abatement Grant Application.

(e) The distribution table shall include the name of each recipient, the criteria addressed, and the resulting allocation.

(f) Following approval of the distribution table by the Board, all recipients shall receive a copy of the Contract, which they must complete and return to the Office of the Attorney General prior to receiving a disbursement of funds. The Contract can be returned by mail or electronic means as determined by the Office.

(g) Grant award proceeds used for ongoing or future strategies, programming, and services must still be monitored through the quarterly reporting to maintain oversight and confirm compliance.

75:40-2-4. Remaining unencumbered balance

Following disbursement, any remaining unencumbered balance in the Revolving Fund shall be available for the Board to award as supplemental grants to eligible Participants, provided such awards shall only be utilized by eligible Participants for Approved Purposes.

75:40-2-5. Oversight and quarterly reporting

(a) The Board shall utilize the Political Subdivision Opioid Abatement Grant Award Quarterly Reporting Form ("Form") to maintain oversight and confirm compliance with the Act. All Recipients must submit quarterly reports using the Form in order to continue receiving or using opioid grant award proceeds. The Form shall be provided on the website of the Oklahoma Office of the Attorney General. Completed quarterly reports shall be returned to the Office of the Attorney General via mail or by electronic means as determined by the Office of the Attorney General. Quarterly reports shall be due on the last day of the month immediately following the conclusion of a quarter. If an opioid grant award is received during a quarter, a recipient is not required to submit a report for the remainder of the initial quarter until the conclusion of the next quarter for which reports for the initial quarter and the first full quarter shall be due.

(b) For the purposes of this chapter, quarters shall run by calendar year. January, February, and March shall be Quarter 1; April, May, and June shall be Quarter 2; July, August, and September shall be Quarter 3; and October, November, and December shall be Quarter 4.

(c) If it is determined that a Recipient is using opioid grant award proceeds out of compliance with Board procedures or has utilized such proceeds for non-approved purposes, the Board shall immediately suspend the Recipient's use of the proceeds and notify the Recipient. Provided, the Board shall resume such allocations once the Board has determined the recipient has adequately remedied the cause of such suspension.

APPENDIX A. OPIOID DISTRIBUTION CALCULATION TABLE [NEW]

Criteria Number	Description of Criteria	Weight of Criteria
1	Number of people per capita suffering from opioid use disorder in the participating subdivision, or in the absence of such information, the opioid prescription rate in the political subdivision compared to the national average opioid prescription rate	20%
2	Number of opioid overdose deaths in the participating political subdivision	40%
3	Amount of opioids distributed within the participating political subdivision	40%