

MEETING NOTES

Statewide Substance Use Response Working Group Response Subcommittee Meeting

October 30, 2023
11:00 a.m.

Zoom Meeting ID: 868 3331 1069
Call in audio: (669) 444-9171
No Public Location

Members Present via Zoom or Telephone

Dr. Terry Kerns
Shayla Holmes (joined at 11:09 am)
Christine Payson
Nancy Lindler
DHHS Appointee – Vacant Spot

Members absent

None

Attorney General's Office Staff

None

Social Entrepreneurs, Inc. Support Team

Crystal Duarte and Madalyn Larson

Members of the Public via Zoom

Elyse Monroy – Belz & Case, Dr. Laura Knight, Trey Delap, Debra DeClus, Hannah Branch, Joan Waldock, Lea Tauchen, Morgan Biaselli, Maureen Strohm, Tina Gerber Winn, District Attorney Bryce Shields

1. Call to Order and Roll Call to Establish Quorum

Chair Kerns called the meeting to order at 11:05 am.

Ms. Duarte called the roll and established a quorum.

2. Public Comment (11:06 am) (Discussion Only)

Chair Kerns asked for public comment.

Ms. Duarte read the public comment guidance.

No public comment was provided.

3. Review and Approve Minutes from September 18, 2023 Response Subcommittee Meeting (11:08 am) (For Possible Action)

Chair Kerns asked for a motion to approve the September 18, 2023 Response Subcommittee meeting minutes.

- Ms. Holmes made the motion;
- Ms. Payson seconded the motion;
- The motion passed unanimously.

4. 2023 Recommendations from October SURG Meeting Discussion (11:10 am) (For Possible Action)

Original RS 3 and HR 3 language:

RS 3. *Leverage existing programs and funding to develop outreach response provider(s) and/or personnel that can respond to any suspected overdose or to those who are provided treatment for an overdose in a hospital/emergency room/EMS and offer follow-up support, referrals, and services to the individual (and loved ones) following an overdose. Provider(s) and/or personnel to be deployed to anyone being released from institutional and community settings (e.g., hospitals, carceral facilities, and other institutional settings) who is being discharged post overdose or suspected overdose. Ensure this recommendation is included as the build out of Nevada’s Crisis Response System is occurring so that tailored intervention for individuals who have survived a non-fatal overdose is included. Sponsor: Dr. Terry Kerns*

HR 3. *Increase support for harm reduction based post-overdose outreach with public safety, including wrap-around services for surviving family members and/or postmortem services for families (for example, the services could be funeral related, housing needs, health care, counseling, or a warm handoff to treatment for substance use disorder).*

Ms. Duarte noted these recommendations are organized in order of preliminary ranking of importance which was done at the October 11, 2023 meeting of the SURG.

Chair Kerns noted we reached out to the prevention subcommittee to see if we could get any guidance from them; the suggestions made by a member of that subcommittee was to take out “(and loved ones) in parentheses” and put “(surviving family members and/or post-mortem services for family members following an overdose)” in parentheses.

Vice Chair Holmes agreed with the suggestions for the recommendation above from the Prevention subcommittee.

Ms. Payson said she is fine with it but she asked to make it more concise rather than putting “services to the individual and persons of concern” to itemize family/friends. Either way she said she is fine with it.

Chair Kerns was curious about this as well – if they do not have any family members, how can this encompass other types of people?

Vice Chair Holmes liked Ms. Payson’s thought process. She was thinking of guardianship legislation language—anyone with personal connection or “persons of interest” or “persons of close vicinity”. She noted the definition of family is broad and we should consider this language to be more encompassing.

Ms. Lindler added a thought about getting away from just using “family members” – those impacted by overdose. You can be impacted by being involved somehow and not being family. But, then we have to decide what it means to be impacted by an overdose.

Ms. Payson liked this verbiage; allow the individual to decide if they have been impacted.

Vice Chair Holmes agreed with this consideration of being impacted. Going broader like this would allow there to be a greater impact and reach to the community as a whole.

Chair Kerns agreed with this thought from Vice Chair Holmes.

Ms. Payson asked if we left the parentheses, could we include “other persons with a personal and/or emotional connection to the victim”.

Chair Kerns thanked the committee for their contributions to these revisions

RS 3 revised language:

RS 3. *Leverage existing programs and funding to develop outreach response provider(s) and/or personnel that can respond to any suspected overdose or to those who are provided treatment for an overdose in a hospital/emergency room/EMS and offer follow-up support, referrals, and services to the individual **and those impacted by the overdose (for example, other persons with a personal and/or emotional connection to the victim, surviving family members and/or postmortem services for families)** following an overdose. Provider(s) and/or personnel to be deployed to anyone being released from institutional and community settings (e.g., hospitals, carceral facilities, and other institutional settings) who is being discharged post overdose or suspected overdose. Ensure this recommendation is included as the build out of Nevada’s Crisis Response System is occurring so that tailored intervention for individuals who have survived a non-fatal overdose is included.*

Chair Kerns asked for a vote to approve the revised language for Response Recommendation 3.

- The motion passed unanimously.

Original RS 1 and TRS 2 language:

RS 1. *Evaluate current availability and readiness to provide comprehensive behavioral health services to include but not limited to screening, assessment, treatment, recovery support, and transitions for reentry in local and state carceral facilities.*

Recommend the allocation of funding to support the development of a Medicaid Reentry Section 1115 Waiver to Increase Health Care For People Leaving Carceral Facilities and to support readiness of carceral facilities to implement the 1115 waiver.

Recommend legislation to require DHCFP to apply for and implement the 1115 Waiver to Increase Health Care For People Leaving Carceral Facilities and ensure there is an evaluation of readiness for planning and implementation. Sponsor: Dr. Stephanie Woodard

TRS 2: *Implement follow ups and referrals and linkage of care for justice involved individuals, including individuals leaving the justice system. Sponsor: Dr. Lesley Dickson*

Chair Kerns discussed the language around the parentheses of RS 1 to add “(for example implement follow up and linkage to care for individuals leaving the justice system).”

Vice Chair Holmes agreed with Chair Kerns to leave this clause after the first paragraph.

Ms. Payson agreed with this suggestion.

RS 1 revised language:

RS 1. Evaluate current availability and readiness to provide comprehensive behavioral health services to include but not limited to screening, assessment, treatment, recovery support, and transitions for reentry in local and state carceral facilities **(for example implement follow up and linkage to care for individuals leaving the justice system).**

Recommend the allocation of funding to support the development of a Medicaid Reentry Section 1115 Waiver to Increase Health Care For People Leaving Carceral Facilities and to support readiness of carceral facilities to implement the 1115 waiver.

Recommend legislation to require DHCFP to apply for and implement the 1115 Waiver to Increase Health Care For People Leaving Carceral Facilities and ensure there is an evaluation of readiness for planning and implementation.

Chair Kerns asked for a vote to approve the revised language for Response recommendation 3.

- The motion passed unanimously.

Original RS 2 language:

RS 2. Understand the true cost of implementing wastewater-based epidemiology (WBE) in Nevada and its ability to support community response plans. Sponsor: Shayla Holmes

Vice Chair Holmes agrees with the suggestion made by Vice Chair Lee at the SURG meeting on October 11, 2023 to make the recommendation more specific.

Chair Kerns asked if they need to know who is going to do the feasibility study or just note we would like to do a feasibility study?

Vice Chair Holmes noted both UNLV and UNR may be doing this work—so she suggested the Nevada System of Higher Education (NSHE) should conduct or fund a feasibility study. We need more research in these areas.

Chair Kerns liked this suggestion from Vice Chair Holmes.

RS 2 language revised:

Recommend the Nevada System of Higher Education (NSHE) conduct a feasibility study to understand the true cost of implementing waste-water based epidemiology (WBE) in Nevada and its ability to support community response plans. Funding for this study may be available through the Fund for a Resilient Nevada.

Chair Kerns asked for a vote to approve the revised language for Response Recommendation 3.

- Vice Chair Holmes made a motion to approve these revisions to RS 2.
- Ms. Lindler seconded the motion.
- The motion passed unanimously.

Chair Kerns asked for someone to provide the narrative for this recommendation to further develop the information on why we rated it as we did and for a statement on racial equity.

Vice Chair Holmes said we could state, “This recommendation was rated a 3 because of the potential positive impacts but the true outcomes are unknown which is why we are recommendation a feasibility study.”

Chair Kerns said we should add this to address health equity, “The state may obtain additional data from areas that are currently lacking, such as rural areas, that can serve to understand the impacts of substance use on different communities.” But, we may need to re-work this a little.

Ms. Duarte said we can add the supporting notes on this recommendation before the December SURG meeting. This will be included in the final report.

Chair Kerns said we don’t really know what the impact will be – so this language should be enough for now.

Original RS 4 language:

RS 4. *Review the operations and lessons learned from Clark County’s Overdose Fatality Review Task Force when that body’s report is released in December 2024 and take this into account when supporting legislation to establish regional Overdose Fatality Review (OFR) Committees allowing flexibility as to the makeup and practice and for the OFR to remain at the county or regional level, as needed, to effectively identify system gaps and innovative community-specific overdose prevention and intervention strategies in accordance with established best practices such as the Bureau of Justice Assistance’s Overdose Fatality Review: A Practitioner’s Guide to Implementation. Sponsors: Dr. Terry Kerns and Dr. Stephanie Woodard*

Chair Kerns said it was noted at the October 11, 2023 SURG meeting that we needed to reach out to the Clark County Opioid Taskforce and Assemblyman Orentlicher. The Clark County Opioid Taskforce has not done any work yet but will begin in January 2024. Assemblyman Orentlicher recommended we reach out to Assemblywoman Cohen, the primary sponsor of the legislation; however, at the time of this meeting, a response has not been received. Dr. Kerns suggested this recommendation go under “for further review.”

Chair Kerns asked for a vote to approve the “for further review” language for Response recommendation 4 – to wait for the Clark County Opioid Task Force report.

- Ms. Payson made a motion to approve these revisions to RS 2.
- Ms. Lindler seconded the motion.
- The motion passed unanimously.

Original RS 5 language:

RS 5. *Understand what coroners and medical examiners currently test for and make recommendation to a specific agency or other sources to fund personnel and resources for independent medical examiner(s) for investigations and reports to specify the cause of death in overdose cases. Sponsor: Christine Payson*

Chair Kerns asked Dr. Laura Knight, Chief Medical Examiner and Coroner, Washoe County Regional Medical Examiner's Office to talk about the costs of testing used at the Washoe County Medical Examiner's Office.

Dr. Knight said the situation in Nevada is we have one Medical Examiner's office in both Clark and Washoe counties. The Sheriff Coroner's in rural counties (those without a Medical Examiner's office) will refer to the Medical Examiner's office in either Clark or Washoe Counties for autopsies when needed. There are variations in practices in death investigations and toxicology testing throughout the state. NRS requires Coroners in rural counties to send any cases of suspected drug related deaths to forensic pathologists in one of the centers to perform an examination. The purpose of the law is to make sure the Coroners don't do toxicology testing themselves and that an examination is performed. This was an attempt to standardized death investigations. Another attempt to standardize practices through legislation was the law that states that the certifier of death, even in rural counties, will put on the death certificate the cause of death, including the list of substances involved in a drug overdose. This means that "drug overdose" cannot be listed on the death certificate. They have to be more specific. She recommends studying and measuring compliance with these newly implemented laws to figure out if another system would better serve the state. The statute codes of interest are: NRS 259.050 & NRS 259.053.

Dr. Knight mentioned that the Northern part of the state does a comprehensive toxicology testing for drug-related deaths. Washoe County uses a premier national toxicology lab –National Medical Services Laboratory. The NMS research arm synthesizes standards to be able to test for new drugs that get identified. They have developed a very advanced panel of testing. She cannot speak to what testing is ordered in Southern Nevada, although they do use NMS. In Northern Nevada, when a death is or is suspected to be drug related, they order an expanded panel of testing that includes all synthetic opioids and newer drugs such as Xylazine. If the lab detects other compounds, the lab will let the county know and the county can order additional testing to understand what is in the drug supply.

Chair Kerns asked about the costs of testing and additional testing?

Dr. Knight said yes this is correct. Washoe County bears this cost and they are on track to spend over \$300,000 this year on testing due to the large number of overdoses. A small portion of the budget for testing comes from grants (e.g., OD2A ~ \$40K), but the majority comes from taxpayer dollars.

Chair Kerns asked about the toxicology results they are getting – this is for the death certificate and possibly prosecution? But as well as Public Health reports?

Dr. Knight confirmed this – there are a lot of uses for this testing data. This data is housed at the Health District.

Dr. Knight questioned what is meant by “independent” medical examiners? Was this recommendation for an outside party to look at what we are doing or just more funding to do the job we are doing for the state?

Ms. Payson said it is for more funding for what is currently being done in the state. It was explained by district attorneys that to move forward in a drug-induced homicide case and to be able to explain to the jury what drugs are on board and caused a death.

Dr. Knight understands that. But she said the issue may be bigger than that because the medical examiner’s may be underfunded. It may be related to the toxicologists being located out of state – which is related to the costs of the outside lab experts. For defendants to be able to confront their accuser, experts, and the case against them, a toxicologist would have to travel to Nevada, which increases the costs of prosecuting drug-related deaths. She would make the argument that all levels of the death investigation needs to be better funded as the number of overdoses increase. This starts with the death scene investigation to the toxicology testing, to having an adequate number of forensic pathologists to do the autopsies on drug-related deaths, which is the national gold standard. Forensic epidemiologists embedded in the medical examiner offices would help get data out and get more granularity in the data. She also noted family advocacy and bereavement services are a really important part of this that need to be better funded. This would be for drug-related and other deaths as well. She understands the need for prosecution but there is a need to handle deaths well and have key people involved to create a more holistic post-mortem approach.

Chair Kerns agrees with Dr. Knight. She noted this recommendation came from law enforcement. She noted maybe a better way to say it is for more funding across the board including: forensic epidemiologists, forensic pathologists, family advocates and family bereavement services.

Ms. Payson said she is fine with this but she isn’t sure how funding will be dispersed.

Chair Kerns said she doesn’t have an answer to this.

Dr. Knight said this might be two different issues here that may need separate recommendations.

Ms. Payson said we need to know if Southern and Northern Nevada are doing the same gold standard of lab testing. We could say “improve funding to determine specific cause of death.” This determination can be used to inform public health, prosecution, or both.

Chair Kerns said that was her thought – the data can be used for both purposes.

Ms. Payson thought the funding for determining the cause of death would need to be different than funding wraparound services. She recommends having two different recommendations – for the funding of determining cause of death and funding wraparound services.

Dr. Knight agreed there are two separate recommendations here.

Vice Chair Holmes asked what their family advocates and postmortem support would look like compared to the funding we are recommending in the revised recommendation #3 that was discussed. It seems like these could potentially be similar recommendations and if the postmortem services described in recommendation #3 do get funded, we would want them connected. Vice Chair Holmes asked if that is something this subcommittee can make a recommendation on considering the NRS the group operates under.

Chair Kerns said these post-mortem services are for post-overdose deaths, while Dr. Knight is talking about further services not just related to overdose deaths. Our recommendation would relate specifically to overdose deaths.

Dr. Knight stated that her office would be able to separate how funding was spent, if it needed to be divided into drug related deaths and all others. They could find additional funds to cover fulltime employees providing such services.

Vice Chair Holmes wanted to return to determining the specific cause of death and asked if the group wants to determine the cause of death for criminal intent only or should we improve funding for the toxicology piece more generally – maybe we can come at this from a public health benefit perspective as well as the criminal justice piece? If we improve funding for toxicology as opposed to just improving it to determine the cause of death, we can do both. She is advocating for more all-encompassing language.

Dr. Knight said her number one job is getting the cause of death correct. We focus on getting an accurate cause of death, not only for prosecution, but also for public health purposes. We have to be funded for both purposes. She gets where Vice Chair Holmes is coming from and emphasized both have to be done really well.

Vice Chair Holmes said we really need to increase funding for both of these things – toxicology testing and autopsy testing. She asked Dr. Knight if the recommendation would best serve the Medical Examiners would it best serve you to get additional staffing or just increase funding and allow your office to determine what the funding is going to?

Dr. Knight said she leaves it to the committee for the recommendation. But yes, we need to adequately fund death investigators and forensic pathologists to do autopsies, and we could love to have the forensic epidemiologist. The bereavement services would also be beneficial. We also have to include considerations for rural sheriff's offices who may have only attended basic training on death investigations to adequately know what happened in a death scene and being able to prosecute deaths correctly where appropriate.

Vice Chair Holmes said based on everything that we have heard today would be to provide adequate funding for medical examiner's office to include death scene investigations and to fund various positions to determine specific causes of death and remove family advocate and bereavement services as those were described in recommendation #3.

Chair Kerns also noted we want to study compliance on laws that are currently in place - NRS 259.050 & NRS 259.053.

Dr. Knight added the NRS language in the chat –

NRS 259.050 (number 3) Investigation into cause of death; postmortem examination; inquest - 3. If it is apparent to or can be reasonably inferred by the coroner that a death may have been caused by drug use or poisoning, the coroner shall cause a postmortem examination to be performed on the decedent by a forensic pathologist unless the death occurred following a hospitalization stay of 24 hours or more.

NRS 259.053 Postmortem examination by forensic pathologist: Determination of cause of death; death certificate. If a forensic pathologist performs a postmortem examination on a body under the jurisdiction of the coroner:

1. The forensic pathologist shall determine the cause of death of the decedent; and
2. The certifier of death shall record on the death certificate the exact cause of death as determined by the forensic pathologist.

Dr. Knight wanted to make sure NRS 259.050 (number three) is specified.

Vice Chair Holmes agreed that we should conduct a compliance study.

Chair Kerns said there would be some impact of this study to the Overdose Fatality Review committee. We would do a separate recommendation for this, it seems like.

Ms. Payson agrees with this. She said this fits with this recommendation – we want to know the cause of death whatever it is—the facts are the facts and they will speak for themselves.

RS 5 revised language:

RS5a: RS 5a. Recommend that a compliance study be completed on NRS 259.050 (number 3) and 259.053.

RS5b: Provide adequate funding for medical examiner offices to include death scene investigations, forensic pathologists, forensic epidemiologists, and toxicology testing to determine specific cause of death.

Chair Kerns asked for a vote to approve these two recommendations for RS5a and RS5b.

- Vice Chair Holmes made a motion to approve these revisions to RS5a and RS5b
- Ms. Payson seconded the motion.
- The motion passed unanimously.

Chair Kerns said we need to add another narrative as to why we ranked this as we did. Ms. Duarte asked for a statement on these two revised recommendations – the capacity and feasibility needs to be addressed in this narrative. We are only voting on the actual recommendation rather than all of the supporting information.

Chair Kerns said she can work on this narrative.

5. Discuss Report Out for December SURG Meeting (12:28 pm) (For Possible Action)

Vice Chair Holmes said the plan for the December 2023 meeting will be that Chair Kerns will share what we discussed today (i.e. recommendation revisions) and the greater SURG will have the opportunity to rank the recommendations again – since the report is due by January. This was our opportunity to move these recommendations forward and the greater SURG will see our revisions and we will see how things get ranked into the final report.

Chair Kerns said the reason these will be re-ranked is because of the recommendation combination and the revisions we did today.

Vice Chair Holmes said if you feel strongly about any of these recommendations please be present to add any supporting words to a certain recommendation.

6. Public Comment (12:32 pm) (Discussion Only)

Chair Kerns asked for public comment.

Chair Kerns read the public comment guidance.

District Attorney Bryce Shields noted he was in the prevention subcommittee which was scheduled at the same time as this meeting. He would have liked to have been in this subcommittee meeting. As a prosecutor for the last 15 years, he has insight on the tension between the Good Samaritan Law and NRS Chapter 453. He noted that the Good Sam Law only immunizes misdemeanors and Category E felony drug crimes and all of those Category E felony drug crimes are either mandatory probation or mandatory diversion. The drug crimes that we are trying to capture by allocating more funds for Medical Examiners are the most significant drug crimes (e.g., murder, a violation of NRS 200.020, child murder). It doesn't immunize trafficking or intent to sell. Prosecutors are not going forward with homicide unless it is someone who is high up on the distribution pipeline, rather than someone who is using drugs and giving them to another person who uses drugs. He thinks it is important to equip law enforcement and prosecutors with tools to prosecute when necessary. In Pershing County there have been 4 or 5 drug overdose cases within the last six months and it is hard to put these cases together.

Chair Kerns thanked District Attorney Shields for this information.

7. Adjournment

The meeting was adjourned at 12:38 pm.