

**STATE OF NEVADA SUBSTANCE ABUSE WORKING GROUP
LEGISLATIVE SUB-COMMITTEE**

MINUTES OF MEETING

March 14, 2013

Sub-Committee Members Present by Teleconference

Mark Jackson, Douglas County District Attorney
Kent Bitsko, Executive Director, Nevada HIDTA
David Marlon, President, Solutions Recovery

Attorney General's Office Staff Present by Teleconference

Henna Rasul, Senior Deputy Attorney General
Heather Cooney, Legal Secretary II

Sub-Committee Members Absent

Peter Mansky, MD, Clinical Services of Nevada

1. **Call to order and roll call of members.** Board Chairman David Marlon called the meeting to order at 10:00 a.m. A quorum of the members was present.
2. **Public Comments.** No public comments.
3. **Review and Approve Minutes from January 24, 2013.** Mark Jackson moved to approve the minutes from the January 24, 2013 meeting. Kent Bitsko seconded. Motion passed unanimously.

David Marlon advised that he was hoping that Liz MacMennamin would be joining the meeting and would try to reach her.

4. **Discussion of Drug Testing and Treatment referrals for social Services.** Mark Jackson stated that Liz MacMennamin had suggested there was some interest in legislation that would drug test those receiving social services. He added that in her absence this agenda item should be postponed. Mr. Jackson stated that as previously discussed, there is no language available on BDR's and any proposed legislation is available at LCB.

David Marlon stated that he was able to obtain a copy of SB89 which revises provisions regarding public assistance.

Kent Bitsko stated that pursuant to the website there was no meeting scheduled for this bill yet.

David Marlon proposed merging Agenda Item No. 4 and Agenda Item No. 13.

Mark Jackson moved that the committee not take any action on Agenda Item No. 13, discussion of SB89 at this time. The Motion carried unanimously.

5. Discussion of BDR 157 of the 2013 Nevada Legislative Session addressing the prescription drug monitoring (PMP) system. Mark Jackson proposed that Agenda Items Nos. 5 through 9 are all BDR's and as there is no language available yet the committee can't really move forward with this.

Kent Bitsko asked if there was a date by which we could expect language.

Mark Jackson stated that there is a timetable but didn't know the exact date, sometime in April.

David Marlon stated he had some discussions with Larry Pinson at the Pharmacy Board who shared some language that we looked at during the last meeting. Dr. Mansky took that language at talked with people at the Medical Board and the AMA. He believed there was broad support for this BDR. This BDR was originally proposed by Assemblywoman **April Mastroluca** who has subsequently resigned. To date it appears no one has picked this up. David Marlon offered to see if he can find someone to pick this up.

Mark Jackson stated this is something that should come out of the working group and recommended that this be referred to them. David Marlon and Kent Bitsko agreed.

6. Discussion of BDR 3-98 of the 2013 Nevada Legislative session revising provisions concerning prescription drugs.

Mark Jackson stated that BDR 3-98 has in fact become a bill and is now SB75. The summary shows that it establishes a cause of action for persons who become addicted to prescription drugs.

Kent Bitsko stated there has already been a committee meeting on it.

David Marlon advised that this update be reported to the working group for direction on whether the sub-committee should attend the meetings or talk to the Assemblyman.

Mark Jackson stated although this bill deals with prescription drugs, the teeth of the bill is establishing a cause of action against doctors. He added that although this may not be outside the scope of the working group, he believed it falls outside their mission. Mr Jackson explained that the bill does not deal with treatment, education, or enforcement and proposed that the committee remain neutral on this issue the way that it's currently written.

Kent Bitsko agreed.

David Marlon explained that the Assemblyman is identifying Nevada's prescription drug addiction problem and that this bill attempts to address it. He added that the Assemblyman stated this bill would need to be dramatically redrafted in order to pass. Mr. Marlon added that this issue is within the scope of the working group. The fact that he is trying to deal with it through the judiciary takes it out of our scope but believes it is something we should watch.

Mark Jackson added that going back to BDR 157 regarding our drug prescription monitoring program, the true intent of Segerblom is to deal with this issue. We believe that one of the most significant things the legislature can do is address the PMP system.

Kent Bitsko concurred and added that even if all they could accomplish was to add language that would require doctors to log on would have more of an impact than anything else they could do.

David Marlon agreed.

7. Discussion of BDR's 46 and 89 of the 2013 Nevada Legislative session regarding the use of medical marijuana.

Kent Bitsko and Mark Jackson both acknowledged that there has been no bill for either of those BDR's at this time

David Marlon stated that this is one of our primary bills that we need to watch as expanding the legality of marijuana in Nevada is counter to the goals of the Substance Abuse Working Group and we should continue to watch this closely.

Kent Bitsko added that there is a position paper that will be coming out of the office of the U.S. Attorney General in the very near future. Kent Bitsko will provide the other committee members with a copy of the position paper when it becomes available.

8. Discussion of BDR 54-101 establishing provisions governing certain acts of pharmacists. Mark Jackson stated that BDR 54-101 is now SB126 sponsored by Senator Atkinson with the same summary, an act relating to the practice of pharmacy; establishing provisions governing the dispensing of a therapeutically equivalent drug in place of a drug that is prescribed by a practitioner. The Legislative Council's Digest states that existing law provides for the substitution by a pharmacist of a generic drug for a prescribed drug if the generic drug is biologically equivalent to and has the same active ingredient as the prescribed drug. Section 1 of this bill authorizes a pharmacist to dispense a therapeutically equivalent drug in place of a prescribed drug under certain circumstances. Sections 2-10 of this bill amend existing laws that reference the substitution of generic drugs to also reference therapeutic interchanges.

Mark Jackson added that based on his review of the bill and the changes to specific statutes under NRS Chapter 639, this falls outside the scope of the working group. Kent Bitsko and David Marlon agreed and moved that the subcommittee strike this from future agendas.

Mark Jackson agreed but added that the sub-committee should still report back to the working group why it has been stricken and why the sub-committee will no longer be following this bill. David Marlon and Kent Bitsko agreed.

9. Discussion of BDR 184 of the 2013 Nevada Legislative session revising provisions relating to driving under the influence. Mark Jackson advised that BDR 184 is now SB175 and was heard before the Senate Transportation Committee on March 1st. He further stated that it went before the Senate on March 5th and passed unanimously. The summary states that the bill is an act relating to public safety; revising the manner in which a chemical solution or gas used in calibrating a device for testing a person's breath to determine the concentration of alcohol in the person's breath is presumed to be properly prepared and suitable for use in calibrating the device; revising provisions concerning the affidavit or declaration used in criminal or administrative proceedings to prove that a chemical solution or gas has the chemical composition necessary for accurately calibrating such a device.

Mr. Jackson advised that this has always been an issue, in the wake of the U.S. Supreme Court case entitled Crawford v. Washington, that deals with the confrontation clause issues and how cases have been prosecuted. He added it has been very difficult to prosecute D.U.I. cases because one could no longer use affidavits under most circumstances. He added this will assist law enforcement and prosecuting attorneys across the state in prosecuting our D.U.I.s.

Mr. Jackson stated that he supports this as a district attorney and hopes this bill will pass in the assembly. Mr. Jackson advised that as this deals with evidentiary issues it may not fall within the scope of the working group.

David Marlon stated that penalties address the substance abuse problem and believes the sub-committee should continue to track this bill. Kent Bitsko agreed and suggested that it might be appropriate for the working group to make a recommendation and support this bill. Mark Jackson moved that the sub-committee make such a recommendation. Kent Bitsko seconded the motion and it was carried unanimously.

10. Discussion of AB 39 – Provides restrictions on the retail sale of certain products that are ephedrine and pseudoephedrine based. David Marlon advised that this had gone to Assembly Labor and Commerce Committee yesterday. Mark Jackson stated no vote had yet been taken on it. Reading from the summary he stated this is “an act relating to pharmacy; making various changes concerning the sale, transfer or acquisition of certain products that are precursors to methamphetamine; providing penalties; and providing other matters properly relating thereto.” Mr. Jackson stated that the sub-committee had previously discussed this bill and the NPLEX system and have come out in support as the Substance Abuse Working Group. He suggested that the sub-committee should continue to track this and report back.

11. Discussion of AB 56 – Increases the penalty for the first offense of unlawfully selling a controlled substance to a minor. Mark Jackson advised that this has not come up for hearing yet. This bill was introduced because there was an issue dealing with the selling of a controlled substance of a minor that when the law was enacted or changed it provided a penalty for a second offence but there was no penalty specified for a first offence so this is to clean up an oversight.

David Marlon suggested that it was similar to No. 9 in that it helps increase penalties for substance abuse related problems and cleaning up and making enforcement easier which sounds like something under our auspices which we would support. Mr. Marlon asked if the sub-committee wanted to make a motion on this or just track it for information.

Mark Jackson stated that because this only deals with the penalty aspect he suggested that this should be put before the working group and the vote should happen there. Kent Bitsko and David Marlon agreed.

12. Discussion of SB 19 - Revises provisions concerning driving under the influence of intoxicating liquor or a controlled substance. Mark Jackson stated that this bill went before the Senate Transportation Committee on February 27th and there was no action taken at that time. Mr. Jackson read from the summary “an act relating to driving under the influence; providing that the violation of a local ordinance prohibiting driving under the influence of intoxicating liquor or a controlled substance is deemed to be a violation of the state law prohibiting the same or similar conduct for all purposes other than the imposition of certain criminal penalties; and providing other matters properly relating thereto.” Mark Jackson explained that this bill would authorize the governing body of each county to adopt such an ordinance providing for the same penalties that are available under state law.

David Marlon suggested that the sub-committee report this back to the working group for a vote of support. Mark Jackson and Kent Bitsko agreed.

13. Discussion of SB 89 - Revises provisions governing public assistance. Comments from the Sub-committee. Was taken out of order.

David Marlon asked if there were any further comments from the members. Kent Bitsko suggested that the sub-committee should meet as soon as language becomes available on the marijuana bills. Mark Jackson agreed.

David Marlon suggested that the overall working group meet to help address the prescription drug monitoring program because if they are able to get a legislator to pick up the BDR they will have a very short time frame. Mark Jackson agreed.

14. Comments from the public. There were no comments from the public.

15. Adjournment. Kent Bitsko moved to adjourn. Mark Jackson seconded the motion and it passed unanimously.

