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January 15, 2017

Honorable Members of the Nevada Legislature
State of Nevada
401 South Carson Street
Carson City, Nevada 89701

Re: Nevada Substance Abuse Working Group 2017 Report

Honorable Members of the Nevada Legislature,

As Nevada's Chief Law Enforcement Officer and the Chair of the Nevada Attorney General's Substance Abuse Working Group (hereafter, "Working Group"), I write on behalf of the Working Group to provide a report regarding the findings and recommendations of the Working Group during the last two years, as required by NRS 228.820. I hope you will find these recommendations helpful as you enter the 2017 (79th) Legislative Session.

If you have any questions, please feel free to contact my assistant, Michele Smaltz, at 775-684-1195

Sincerely,

ADAM PAUL LAXALT
Attorney General

CC: Rick Combs, Director, Legislative Counsel Bureau



Nevada Substance Abuse Working Group 2017 Report

January 15, 2017

**Adam Paul Laxalt
Attorney General
Chairman**

NRS 228.800 Creation; composition; officers; terms; service without compensation; members employed by State or political subdivision; administrative support. [Effective through June 30, 2015.]

1. The Substance Abuse Working Group is hereby created within the Office of the Attorney General.
2. The Working Group consists of the Attorney General and nine members appointed by the Attorney General.
3. The Attorney General is the ex officio Chair of the Working Group.
4. The Working Group shall annually elect a Vice Chair and Secretary from among its members.
5. Each member who is appointed to the Working Group serves a term of 2 years. Members may be reappointed for additional terms of 2 years. Any vacancy occurring in the membership of the Working Group must be filled not later than 30 days after the vacancy occurs.
6. The members of the Working Group serve without compensation and are not entitled to the per diem and travel expenses provided for state officers and employees generally.
7. Each member of the Working Group who is an officer or employee of this State or a political subdivision of this State must be relieved from his or her duties without loss of regular compensation so that the officer or employee may prepare for and attend meetings of the Working Group and perform any work necessary to carry out the duties of the Working Group in the most timely manner practicable. A state agency or political subdivision of this State shall not require an officer or employee who is a member of the Working Group to make up the time the officer or employee is absent from work to carry out duties as a member of the Working Group or use annual leave or compensatory time for the absence.
8. The Attorney General shall provide such administrative support to the Working Group as is necessary to carry out the duties of the Working Group.

NRS 228.810 Meetings. [Effective through June 30, 2015.]

1. The Substance Abuse Working Group created by [NRS 228.800](#) shall meet at least once every 3 months at the times and places specified by a call of the Chair and may meet at such further times as deemed necessary by the Chair.
2. The Chair of the Working Group, or in the absence of the Chair, the Vice Chair of the Working Group, shall preside at each meeting of the Working Group.
3. A member of the Working Group may designate a person to represent him or her at a meeting of the Working Group if it is impractical for the member of the Working Group to attend the meeting. A representative who has been so designated:
 - (a) Shall be deemed to be a member of the Working Group for the purpose of determining a quorum at the meeting; and
 - (b) May vote on any matter that is voted on by the regular members of the Working Group at the meeting.

NRS 228.820 Duties; reports. [Effective through June 30, 2015.]

1. The Substance Abuse Working Group created by [NRS 228.800](#) shall study issues relating to substance abuse in the State of Nevada, including, without limitation:
 - (a) The effect of substance abuse on law enforcement, prisons and other correctional facilities;
 - (b) The sources and manufacturers of substances which are abused;
 - (c) Methods and resources to prevent substance abuse;
 - (d) Methods and resources to prevent the manufacture, trafficking and sale of substances which are abused;
 - (e) The effectiveness of criminal and civil penalties in preventing substance abuse;
 - (f) The effectiveness of criminal and civil penalties in preventing the manufacture, trafficking and sale of substances which are abused;

(g) Resources available to assist substance abusers to rehabilitate and recover from the effects of abuse;

(h) Programs available to educate youth about the effects of substance abuse;

(i) Programs available to educate family and friends of substance abusers about the manner in which to provide support and assistance to substance abusers; and

(j) The effect of substance abuse on the economy.

2. On or before January 15 of each odd-numbered year, the Working Group shall submit a report of its findings and recommendations to the Director of the Legislative Counsel Bureau for distribution to the next regular session of the Legislature.

INTRODUCTION

The Substance Abuse Working Group (“Working Group”) was created by legislative enactment on July 1, 2011 to study the issues relating to substance abuse in Nevada, including:

- ✓ Impacts on law enforcement, prison and detention resources
- ✓ Sources and manufacture of abusive substances
- ✓ Preventative and punitive measures against manufacturers and suppliers of abusive substances
- ✓ Rehabilitation and recovery options for substance abusers
- ✓ Youth and family education, as well as awareness programs
- ✓ Impacts on the economy

The purpose of this report is to provide the Legislature with information and recommendations to consider during the Legislative Session regarding the negative impacts substance abuse continues to have on our state. This report will provide a summary of pertinent activity and findings provided to the Working Group during 2016, along with recommendations in light of the passage of Question Two that legalized the recreational use of marijuana. The Working Group hopes this report will help provide a guidepost for the legislative and regulatory framework needed to accommodate this new law as it will pose numerous public health, safety and law enforcement challenges.

The Working Group consists of the following members: Chairman Attorney General Adam P. Laxalt, Vice-Chair First Assistant Wesley Duncan, President of Solutions Recovery, Inc. David Marlon, Ex. Director Nevada Statewide Coalition Partnership Linda Lang, Director of Department of Health & Human Services Richard Whitley, Ex. Secretary Nevada State Board of Pharmacy Dr. Larry Pinson, Las Vegas Metropolitan Police Department (LVMPD) Director of Intergovernmental Services Chuck Callaway, the Honorable Pat Hickey with Nevadans for Responsible Drug Policy, Dr. Miriam Adelson of the Adelson Clinic and Douglas County District Attorney Mark Jackson.

ACTIVITY AND IMPORTANT FINDINGS OF THE WORKING GROUP

During the course of this reporting period, the Working Group heard testimony on a myriad of subjects. The following is a summation of their important activity and findings:

March 29, 2016 Meeting

Narcotics Report for Southern Nevada

The Working Group heard testimony from Sergeant Erick Wilds, LVMPD Narcotics, about the growing drug trends in southern Nevada with regard to heroin, methamphetamine and prescription drug abuse. Sergeant Wilds reported that heroin was one of the most significant drug threats to Las Vegas as evidenced by the 107% increase in the amount of heroin seized during 2015 compared to 2014. According to the Clark County Coroner's Office, 71 deaths were attributed to heroin use in 2015, a 25% increase from the prior year.

Methamphetamine continues to be a significant drug threat to Las Vegas. In 2015, 202 deaths were attributed to methamphetamine use, a 22% increase from the prior year.

Deaths related to pharmaceutical use was up by only 1% in 2015 compared to the prior year. The latest statistics show that there are 94 painkiller prescriptions written per 100 people in Nevada as of 2012.

Sergeant Wilds testified that there was a 17% decrease in the total number of individuals arrested for a narcotics offense in 2015 compared to 2014. In terms of heroin and methamphetamine, there was a 2% decrease in heroin arrests and a 2% decrease for methamphetamine. He also reported a 28% decrease in marijuana arrests and a 21% decrease in cocaine arrests. Pharmaceutical related arrests rose 5%.

In 2015, the number of indoor marijuana growth operations decreased. However, with the opening of legal medical marijuana dispensaries, the number of illegal marijuana delivery services increased. LVMPD initiated undercover buys on 21 illegal marijuana delivery services resulting in 26 arrests, 30 search warrants, and the seizure of 55 firearms and \$193,059.19 in U.S. currency. In all, 102 pounds of marijuana, 6.3 pounds of THC wax, 109 pounds of THC oil and 503 pounds of THC edibles were seized.

Drug Use on the I-80 Corridor

Sergeant Max Brokaw of the Washoe County Sheriff's Office, provided testimony to the Working Group and reported that heroin use is a big concern in

northern Nevada and that the Sheriff's Office is doing its best to dismantle heroin franchises throughout Washoe County. He reported that southern Nevada is facing similar challenges with the use of illegal medical marijuana dispensaries.

Drug Takeback Efforts

Special Agent (SA) Dan Neill with the Drug Enforcement Agency, discussed the upcoming 11th Annual Take Back Day on April 30, 2016. Over 5000 collection sites across the country will participate in the event. In 2015, SA Neill reported that 31,000 pounds of prescription drugs were taken back and properly disposed of. He reported that law enforcement across the state would be participating in the event. During his testimony, the subject of drug incinerators and finding funding for their use across the state was brought to the attention of the Working Group.

June 8, 2016 Meeting

Specialty Courts

The Working Group heard testimony from Ms. Margaret Pickard, Specialty Court Manager for the 8th Judicial District Court, regarding specialty court programs in the 8th Judicial District. Ms. Pickard reported that there were nine different specialty courts for non-violent offenders with substance abuse or mental health issues. In 1992, the 8th Judicial District established one of the first drug court programs in the nation. In all, there are the following nine specialty court programs: 1) Adult Drug Court 2) Felony DUI 3) Mental Health Court 4) Juvenile Drug Court 5) Veterans' Court 6) Family Treatment Court 7) Dependency Mother's Drug Court 8) Child Support Treatment Court 9) OPEN Program.

Drug Take-Back

SA Neill, Liz MacMenamin with the Retail Association of Nevada, and Stacy Ward, a Drug Abuse Counselor with the Reno Police Department, reported on the April 30, 2016 Drug Take-Back day in Nevada. SA Neill testified that nine Nevada agencies participated in the Take-Back day, and that there were 26 drop off sites state-wide. Nationwide, 447 tons of prescription drugs were collected. Nevada collected 3,776 pounds in the 2016 event. Ms. MacMenamin spoke to the group about expanding take-back efforts to southern Nevada.

Ms. Stacy Ward with the Reno Police Department, testified that 242,000 pills were collected in northern Nevada for the drug take back day on April 30, 2016. She also testified that 14% of the total pills collected were categorized as drugs of abuse. Overall, she reported that since October 2009, there have been approximately 1.9 million pills collected in northern Nevada.

The Scope of Opioid Abuse

Ms. Julie Peek and Dr. Stephanie Woodard with the Nevada Department of Health and Human Services, Division of Public Health, testified that in 2014 there were 19,000 drug related deaths, 52 per day, nationwide. This number increase from 2013 where there were 16,000 drug related deaths. In Nevada, it was reported that State physicians write 94 painkiller prescriptions for every 100 Nevada residents, and that 1 in 5 high school students self-reported that they had used a prescription drug that was not specifically written for them. Ms. Peek testified that Nevada received a large grant from the Center for Disease and Control (CDC) to aid in prevention efforts. One million dollars will be received through 2019 to help gather drug related abuse data.

October 5, 2016 Meeting

High Intensity Drug Trafficking Area Report (HIDTA) (Colorado)

District Attorney (DA) Mark Jackson presented the HIDTA report from Colorado. DA Jackson reported that marijuana traffic-related deaths increased 48% in the three year average (2013-2015) since Colorado legalized recreational marijuana compared to the three-year average (2010-2012) prior to legalization. Marijuana related traffic deaths increased from 71 to 115 persons, a rise of 62%. In terms of marijuana use among youth, Colorado saw an increase of 20% since legalizing the recreational use of marijuana while the national average fell 4% during the same period. Colorado's youth "past month marijuana use" for 2013-2014 was 74% higher than the national average. The number of highway patrol interdiction seizures of Colorado Marijuana increased 37% since the recreational use of marijuana was approved. In terms of budget data, medical and recreational tax revenue only accounted for 0.5% of the budget. In all, there are 424 retail marijuana stores in Colorado compared to 202 McDonald's and 322 Starbucks stores. DA Jackson testified that it is likely Nevada will see similar increases in youth marijuana and driving fatalities if recreational marijuana is approved by the voters.

Report on Recreational Marijuana and its Impact on the State

The Honorable Pat Hickey with Nevadans for Responsible Drug Policy, testified about the numerous unforeseeable consequences the passage of Initiative Petition Two would have on the state. First, he reported that pursuant to the petition, schools are third in line to receive funding which will mean they will receive a very small portion of the tax revenue. Second, the language of the petition does nothing to curb the sale, advertisement or use of edible marijuana for youth in Nevada. In Colorado, 45% of marijuana is in edible form. Third, the petition fails to take into account issues in the work force related to testing. Mr. Hickey reported

that Colorado is having a very difficult time filling entry level positions because applicants cannot pass the pre-employment drug screening. He also reported that the Denver area has seen a marked increase in rates of homelessness since legalization.

Fentanyl

Ms. Linda Lang, Executive Director for the Nevada Statewide Coalition Partnership, reported that fentanyl use is increasing across the nation and moving west. Six jurisdictions east of the Mississippi River reported increases in fentanyl overdose in 2015. For example, in Maine, illicitly produced fentanyl contributed to 32% of overdose deaths, and there was a 502% increase in Southeastern Florida in fentanyl-related overdose deaths. It was recommended that the Working Group look at the legislative changes in Massachusetts and also see how the drug Naloxone can be used to combat overdoses. The Working Group also took suggestions on how to better bridge the gap between emergency medical services and law enforcement.

December 8, 2016 Meeting

Effect of Random Urine Drug Tests in Private High schools (A Study)

Dr. Miriam Adelson, Adelson Clinics, Las Vegas, provided the Working Group with the results of a study of the effect of random drug testing on all staff and students at the Adelson Educational Campus. Dr. Adelson provided statistical evidence showing that the earlier teens use any substance, the greater the risk of addiction. She further provided that most drug use begins in the teenage years and that prevention and intervention for adolescents can be quite effective for stopping lifelong abuse. She testified that between the years of 2008 and 2014, a random periodic collection (three to four times a year) of urine tests for substance abuse was administered to the students and staff at the Adelson School. Dr. Adelson testified that the urine test program was very successful and found that only 1.4% of students tested positive for illicit drugs. She urged the Working Group to encourage the implementation of similar intervention programs to schools throughout Nevada.

Fentanyl

Dr. John DiMuro, Nevada Chief Medical Officer for the Nevada Division of Public and Behavioral Health, testified about Fentanyl. He described Fentanyl as a Schedule II opiate analgesic used as a sedative for medical procedures. Fentanyl is described as having a high potential for abuse possibly leading to severe psychological or physical dependence. In fact, fentanyl is just under heroin in terms of opiate potencies. Fentanyl is 100 times more potent than morphine and 20 to 50 times more potent than heroin. Dr. DiMuro related many problems associated with

fentanyl including overuse by patients, illegal manufacturing, illicit drug use and abuse by healthcare providers. He suggested to the Working Group that prescriptions of fentanyl should have point of service urinary drug screens and that urine drug testing and previous hospitalizations should be entered into the Prescription Drug Monitoring Program (PDMP). He also suggested that first responders be allowed to access the PDMP at the scene of overdoses. Lastly, he suggested that the PDMP should be used to review data for the highest volume opiate prescribers.

Alternative Methods of Pain Management

Dr. Dan Burkhead, a Las Vegas anesthesiologist, presented alternative methods to opiates. Dr. Burkhead said there are other methods to manage pain. Some alternatives include conservative measures such as massage, injection treatments and surgery. He said that some of the injection treatments are very effective, but that Medicare and other insurance providers limit the amount of injections that, in turn, affects the effectiveness of this alternative form of pain management.

Coordination of Emergency Medical Services and Law Enforcement

Richard Whitley, Director of the Nevada Department of Health and Human Services, and Jim Wright, Director of the Department of Public Safety, testified before the Working Group detailing the need to coordinate emergency medical services and law enforcement for better information sharing. Director Wright stated that HIPPA is the largest barrier to information sharing, but that law enforcement would be better served if they had access to the PDMP when they arrive at possible overdose crime scenes. Members of the Working Group wanted the Legislature to consider granting emergency first responders' access to the PDMP to better assess overdose scenarios when they arrive at scenes.

Legislative and Regulatory Proposals for Recreational Marijuana

The Honorable Pat Hickey with Nevadans for Responsible Drug Policy, reported on potential considerations for Nevada to review in the wake of the use of recreational marijuana being approved by the voters. First, he reported that the regulatory scheme should be robust and comprehensive as it relates to edibles, advertising and THC potencies. Second, Nevada should demand a strong per se standard for driving while high. Third, some sort of oversight office should be created in the State to monitor statewide marijuana use. Fourth, Nevada should coordinate with other states to curtail black market and cartel activity.

Mr. Hickey also reported that the Department of Justice’s potential enforcement of the Controlled Substance Act (CSA) could drastically change the landscape of recreational marijuana usage in Nevada and across the country.

RECOMMENDATIONS

In light of the passage of Question Two and its potential impact on substance abuse and law enforcement in the State, the Working Group makes the following recommendations to the 2017 Legislature with regard to recreational marijuana:

- (1) **Per Se Standards:** Continue to maintain or strengthen the per se standard for driving while under the influence of marijuana. Currently, NRS 484C.110 provides that:

It is unlawful for any person to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access with an amount of a prohibited substance in his or her blood or urine that is equal to or greater than:

<i>Prohibited substance</i>	<i>Urine Nanograms per milliliter</i>	<i>Blood Nanograms per milliliter</i>
(a) <i>Amphetamine</i>	500	100
(b) <i>Cocaine</i>	150	50
(c) <i>Cocaine metabolite</i>	150	50
(d) <i>Heroin</i>	2,000	50
(e) <i>Heroin metabolite:</i>		
(1) <i>Morphine</i>	2,000	50
(2) <i>6-monoacetyl morphine</i>	10	10
(f) <i>Lysergic acid diethylamide</i>	25	10
(g) <i>Marijuana</i>	10	2
(h) <i>Marijuana metabolite</i>	15	5
(i) <i>Methamphetamine</i>	500	100
(j) <i>Phencyclidine</i>	25	10

Because states like Colorado have seen a dramatic increase in Marijuana-related deaths since legalizing marijuana (62% increase in Colorado since 2013 legalization), it is important that the law provides a strong deterrent for driving while under the influence of marijuana and other controlled substances.

- (2) **Edibles:** The legislature should pass laws that restrict edible forms of marijuana to the fullest extent possible, as edible and concentrate products pose the greatest risk to children because they resemble non-laced products such as brownies, lollipops, gummy bears and other candy products.

- (3) **Advertising:** Similar to tobacco and alcohol, teenage and pre-teen youth are highly susceptible to advertisements geared toward getting them hooked on certain products. Studies show that the users who start using products like tobacco or alcohol earlier in life are more likely to continue using these products throughout their lifetime and establish a “brand loyalty” to the products. Accordingly, the Legislature should ensure that the regulation on advertising is broad, restrictive and heavily regulated so that legalized marijuana companies do not use loop holes to advertise to minors. Moreover, there should be heavy penalties for companies that advertise to minors.
- (4) **Independent Oversight:** The Legislature should set up an oversight office staffed with medical professionals, possibly in the Division of Health and Human Services, to gather and track data related to the health ramifications of marijuana use. The office should be staffed with public health professionals, addiction experts and doctors. Moreover, the office should not be staffed with members of the marijuana lobby. The public has a right to transparent and objective information to evaluate how marijuana should be regulated.
- (5) **Product Liability and Dram Shops Laws:** The Legislature should ensure that the marijuana industry is not exempted from product liability or other tort lawsuits. Manufacturers and retailers should be held liable for marijuana products that harm Nevada consumers. Moreover, the marijuana industry must not be exempted from so-called dram shop laws and should be held accountable for the injuries of others if they sell marijuana to intoxicated buyers who then hurt others in the community.
- (6) **Clear Definition of Public Place:** Law enforcement across the State will encounter Nevadans who are smoking and will claim they are not in a “public place.” Legislative or regulatory guidance of what constitutes a public place would be very helpful to law enforcement as it pertains to marijuana use.
- (7) **Limits on the Proceeds of Personal Cultivation:** The ballot initiative left open the scenario where a person could have unlimited amounts of “proceeds” from personal cultivation. A strict limit on these proceeds should be enacted.
- (8) **Potency:** Because of genetic engineering, modern THC strains of cannabis are, in some instances, up to 20-30 times more potent than they were in the 1960’s and 1970’s. Accordingly, the Legislature should enact strict laws limiting THC potency because of the adverse health effects.
- (9) **Product Labeling:** Nevada Consumers have a right to be put on notice of the potential adverse health effects of marijuana consumption. Marijuana manufacturers, retailers and distributors should be required to place warning

labels on marijuana products that alert consumers of the possibility of addiction, altered brain development in minors, cognitive impairment, motor control impairment, short term memory impairment, altered judgment, and for some, paranoia and psychosis in higher doses. Moreover, strict warning labels should warn against driving while under the influence of marijuana, as marijuana has been shown to increase driving reaction times, impair time and distance estimation, and impair motor function and coordination, especially with more potent and higher doses of marijuana.

- (10) **Hazardous Substances Related to Cultivation:** Marijuana cultivation can sometimes result in hazardous material, unhealthy by-products and mold. If large scale clean-up is required, growers should be strictly liable and required to pay the costs of the clean-up, especially when hazardous material teams are required.
- (11) **Prohibition of Marijuana in County and Municipal Jails:** Marijuana possession or use of marijuana or marijuana paraphernalia was specifically prohibited in the language of Question Two at the Nevada Department of Corrections. However, there is no similar prohibition in county and municipal jails. The Legislature needs to ensure that the same prohibition applies to local and municipal jail facilities.
- (12) **Employment Law:** The Legislature should ensure that private employers are able to enact policies that prevent, if they so choose, the hiring of employees who use marijuana. For example, the gaming industry and associated properties, are subject to federal law where marijuana possession and use is still prohibited. Other industries such as construction, public transportation, and healthcare services should be able to enact hiring and employment policies that forbid the use of marijuana.
- (13) **Statistics:** Law enforcement offices across the state should be required to keep statistics on the effect marijuana legalization is having across the state on the criminal justice system. Specifically, statistics related to cartel and black market activity should be tabulated to calculate the impact legalized marijuana is having on state law enforcement.