

## MEETING NOTES

### Statewide Substance Use Response Working Group Meeting

Monday October 3, 2022

9:00 a.m.

#### Meeting Locations:

Offices of the Attorney General

- Carson Mock Courtroom, 100 N. Carson St., Carson City
- 4500 Conference Room, Grant Sawyer Building, 555 E. Washington Blvd., Las Vegas

#### Zoom Webinar ID:

824 4885 5084

#### Members Present in Las Vegas

Dr. Leslie Dickson, Jessica Johnson and Angela Nickles.

#### Members Present in Carson City

Assemblywoman Jill Tolles

#### Members Present via Zoom or Telephone

Chelsi Cheatom, Senator Fabian Doñate, Attorney General Aaron Ford, Gina Flores O'Toole, Shayla Holmes, Jeffrey Iverson, Lisa Lee, Debi Nadler, Christine Payson, Erik Schoen, Senator Heidi Seevers-Gansert, Steve Shell, Assemblywoman Claire Thomas, and Dr. Stephanie Woodard

#### Attorney General's Office Staff

Jessica Adair Brinich, Chricy Harris, Dr. Terry Kerns, Mark Krueger, and Ashley Tackett

#### Social Entrepreneurs, Inc. Support Team

Crystal Duarte, Laura Hale, Deanna Lyons, Kelly Marschall, and Emma Rodriguez

#### Members of the Public via Zoom and Las Vegas

Tray Abney (Abney Tauchen Group), Linda Anderson (NV Public Health Foundation), Chantrial, Vanessa Dunn (Belz & Case Government Affairs), Rhonda Fairchild (Behavioral Health Group), Becky Fuqua-Spuhl, Chris Hicks, Joan, Mary-Sarah Kinner (Washoe County Sheriff's Office), Madalyn Larsen, Jimmy Lau, Kristen Pendergrass (Shatterproof), Henna Rasul, Jamie Ross (Drug Free Las Vegas), Tyler Shaw (Ferrari Reeder), P. Whelan, Dave Wuest (Board of Pharmacy), and Dawn Yohey (DHHS)

### 1. Call to Order and Roll Call to Establish Quorum

Chair Ford called the meeting to order at 9:05 a.m. Emma Rodriguez called the roll and announced that a quorum was established. Chair Ford reminded members not to use the chat feature, to ensure compliance with the open meeting law.

### 2. Public Comment

Ms. Nadler asked about the reason for the lawsuit, and she quoted comments in the press from Attorney General Ford that *the defendants have the deaths of thousands of Nevadans on their hands. . . while we've won the battles, the war is not finished. We'll bring justice to those who have caused harm to Nevada, and its residents.* Ms. Nadler

went on to say that every time she has asked for victims' compensation for all the family members, it's been said that this was not part of the lawsuit. However, the McKinsey lawsuit under the request for relief in section B, includes compensatory damages for injuries sustained by the state and its residents. The legal definition of injury is the same as with insurance companies. Any physical sickness or injury – physical death is an injury, including death, if the victim died from a physical sickness or injury.

Ms. Nadler said she missed the June 7<sup>th</sup> meeting, but she knows that Lisa Lee brought this up regarding victims' compensation and the tons of people who have been affected by it. The fact of the matter is all the grieving family members are suffering intensely because of it. Many cannot work, many suffer from PTSD. Many are raising grandchildren, many struggled through their children's use for years and years and see therapists every single week.

Ms. Nadler said, *I can't sit back. I mean, I feel like you're standing on the back of my dead child and others to gain money from a multi-million-dollar lawsuit, and not help the parents to survive the death of their child. Addiction affected the entire family, not just the child who fought themselves, but those who fought against the disease. As a matter of fact, in the McKinsey lawsuit, the first lawsuit, the first payoff went to Eglet Prince. Where was the rest of the money? Where's the money trail? I don't see any money being used whatsoever. Do we have a record of where the money's gone so far because I know, personally, I've worked for three years to try to get somebody into rehab – a little boy on the street – and he finally agreed to go in on Monday. He was turned away for two days in a row at Crossroads and that took a lot for him to get there. Finally, thanks to Christa Hales, he was able to get into Seven Hills.*

Ms. Nadler said she was at a loss for words because *if all our children had not died, there would be no lawsuit. So, at the very least, for all the grieving family members, and we all feel the same, we want to scream from the rooftops, we want the money to go to primary prevention, education, and PSAs. We don't want to see anyone walking in our shoes, and we're not seeing the money go there. There's talk and talk and talk. We're not seeing the money. Just last week, we lost six residents from cocaine, and thank God, the police had Narcan. But we are losing. Our numbers for our adolescents are on the rise.*

Ms. Nadler said she spoke with Dana Walburn (Nevada Department of Education) regarding a mandate for Narcan in all Nevada classrooms. It's not [mandated], but it's in some of the schools. She said she was confused and doesn't understand. Too many parents are suffering from PTSD and cannot go back to work, and *this lawsuit was done on our dead children's backs.*

Chair Ford acknowledged Ms. Nadler's passion around this issue. He has seen her interviews on the news with some of these same questions, and he understands her questions. He explained that questions aren't answered under public comment, but Mark Krueger would be updating everyone on the lawsuit later in the meeting, as well as its purpose and the distribution of funds. Many answers have been provided already, but that information can be provided again. As a reminder, this committee doesn't do the distribution of funds.

Rhonda Fairchild with Behavioral Health Group, Peer Recovery Support Specialist and Supervisor, said she would reserve her comments for the end.

### **3. Introduce New SURG Member, Angela Nickles, *Representing a School District* (Information Only.)**

Chair Ford asked Ms. Nickles to introduce herself. Ms. Nickles introduced herself as the new principal at Mission High School, taking over Barbara Collins' spot. She expressed her interest in the work of the SURG and thanked members for having her there. Chair Ford welcomed her to the committee, and he thanked her for her service to the community and to the committee.

### **4. Review and Approve Minutes for June 7, 2022, SURG Meeting (For Possible Action)**

Chair Ford requested a motion to approve the minutes. Assemblywoman Tolles noticed one typo on page 2, where the previous meeting was called to order at 9 a.m., not 8 a.m.

- Jeffrey Iverson made a motion to approve the minutes as amended.
- Assemblywoman Tolles seconded the motion.
- Ms. Nadler abstained due to absence from the meeting.

- The motion carried with remaining members in favor.

## 5. Update on Opioid Litigation, Settlement Funds, and Distribution *(Information Only)*

Chair Ford clarified that Mark Krueger is not the “Second Assistant Attorney General” as indicated on the Power Point slide. He is Chief [Deputy Attorney General] of the Consumer Protection Division.

In response to outstanding questions raised by Ms. Nadler in public comment, Chair Ford referenced Chief Krueger’s presentation of extensive litigation, at the previous meeting that Ms. Nadler missed. The presentation is posted on the website and is available for review.<sup>1</sup>

Chief Deputy Attorney General (DAG) Mark Krueger, Bureau of Consumer Protection, Office of the Attorney General, reminded members that litigation is ongoing, with a trial date of April 17, 2023. He reiterated that this lawsuit was filed in the State’s name, not in the names of individuals, for damages that the State has incurred for addressing the opioid impact, which has been extensive. Damages are in the billions of dollars, impacting everything from Narcan on the streets to Medicaid coverage, and other areas identified in the State’s Needs Assessment. This includes current and future impact and abatement.

Chief Krueger explained that the State’s share of the settlement has gone into the Fund for a Resilient Nevada (FRN) set up under [SB390](#) from the last legislative session. The money must be allocated by the Department of Health and Human Services (DHHS) following the Needs Assessment which is 143 pages, and can be found on their website at [https://dhhs.nv.gov/Programs/Grants/Advisory\\_Committees/ACRN/Home/](https://dhhs.nv.gov/Programs/Grants/Advisory_Committees/ACRN/Home/). The State Plan is based on evidence-based practices and should be available at the end of October.

Chief Krueger reminded members of the expense of litigation as third-party costs that must be paid in order to move forward. They have already seen the benefit with settlements, including McKinsey, which was a \$45 million settlement. More recent settlements from Johnson and Johnson and the distributors will total \$285 million over time. Again, litigation costs must come out of that, and the total amount of costs were \$8 million for this particular settlement. There will be attorneys’ fees coming out, based upon percentages for the State, as well as percentages for each of the litigating cities and counties that are signatories to the One Nevada Agreement. Almost \$231 million will be allocated to the State of Nevada and the counties and cities. These funds will be used to address the State Plan and the Needs Assessment, with programs that DHHS has identified and prioritized. Individual counties are working together, and some have created their own needs assessments. Some counties also work with cities, and some cities are working together, to abate the epidemic through expenditures on evidence-based programs and services. They are required to account for expenditures annually, with a report to the Attorney General’s Office, to ensure compliance with the State Plan, SB390, and the settlement agreements.

Chief Krueger reported that after allocation of fees, \$52 million came into the state from the Johnson and Johnson settlement, and two payments from the distributor settlement; all of the State’s portion was deposited into the FRN. Other portions have been allocated out to the other signatories to the One Nevada Agreement. In addition to the Purdue bankruptcy, which is still pending, the Mallinckrodt bankruptcy is also pending, but the plan has been approved, so there may be additional funds coming in the next three to six months.

Chief Krueger clarified that there will be 16 payments for a total of \$233 million coming into the State of Nevada over time for these settlements and will be allocated through the One Nevada Agreement. The portion allocated to the State will be deposited into the FRN. The Office of the Attorney General is not responsible for spending this money. The counties and cities also receive money and will determine how to spend it.

Regarding the McKinsey settlement, Chair Ford reminded everyone that the initial proposed settlement for \$6.5 to \$7 million was rejected because it was insufficient. Subsequently, they got \$45 million pursuant to the contract with outside counsel, with reimbursement of costs to be paid first. So, it’s unlikely they would balk at the \$16 million, which is contractual and transparent, and available on the website with additional documents provided in

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<sup>1</sup> See meeting materials for Statewide Substance Use Response Working Group 06/07/2022.  
[https://ag.nv.gov/About/Administration/Substance\\_Use\\_Response\\_Working\\_Group\\_\(SURG\)/](https://ag.nv.gov/About/Administration/Substance_Use_Response_Working_Group_(SURG)/)

response to public record requests. This information was presented at the last meeting with opportunity for questions, and this meeting is another opportunity for questions.

Ms. Nadler asked for clarification regarding lawsuits from the state and the counties and cities.

Chief Krueger explained when working to get maximum funds under the settlements, the State of Nevada entered into an intrastate agreement with every single county within Nevada, and all the litigating cities in Nevada. The intrastate agreement is the One Nevada agreement, which is on the Attorney General's Office website, and allows the State to get the maximum amount of money under the settlements and fairly and equitably allocate the money between the signatories to the One Nevada Agreement. Chair Ford referenced these signatories, including Nye, Elko, and Washoe counties, as well as the City of Las Vegas and others.

Ms. Nadler asked if the One Nevada agreement is different from the ACRN, or other counties and cities.

Chair Ford explained some have their own lawsuits, but the state entered into the agreement to maximize funds.

Ms. Nadler said she understood that funds were received from the McKinsey lawsuit in 2020 and that attorneys were paid upfront. She expressed frustration with the delay and emphasized the dire need with kids dying in the streets and not finding recovery.

Chair Ford explained that a needs assessment was required before expenditure under the ACRN. They just finished that Needs Assessment recently, now they can determine expenditures.

Ms. Nadler said she guessed she should disregard news stories reporting that the money is already being used.

Dr. Woodard explained that no funds from the FRN have been allocated to any activity other than completing the Needs Assessment and working on the State Plan. However, city or county settlement funds may be getting pushed out and administered at the local level.

Ms. Nadler asked Dr. Woodard if DHHS is ultimately the head of giving out the money from the lawsuit.

Dr. Woodard said DHHS oversees FRN which is the state's portion, based on the Needs Assessment and the State Plan, as recommended by ACRN and other groups.

Ms. Nadler asked if ACRN can be in communication with the SURG to share information.

Dr. Woodard confirmed the convenings are public meetings, with public comment at the beginning and end, and Mercer has been reporting to the SURG on the Needs Assessment and the State Plan, with formal and informal recommendations.

Ms. Nadler asked if there was a final updated number from Mercer, because the last presentation was from 2020, regarding fatalities of young kids, and she hasn't seen a revision on the effects on our youth. They're the highest ones overdosing right now.

Dr. Woodard explained those numbers come from the Office of Analytics at DHHS. Mercer consolidated about 40 different source documents for the Needs Assessment. They can reach out for additional information from this group as well as quarterly updates from the Office of Analytics, as it becomes available. She will provide links to the SURG.

Vice Chair Tolles expressed gratitude for the ongoing conversation and information from Mr. Krueger. There will be ongoing questions regarding new money coming in, even if it's "there is no update," and how the work of the SURG is influencing that. Vice Chair Tolles made a procedural recommendation to have regular updates on the funding status. She also reported a suggestion to bring together the ACRN and the SURG in a joint meeting to address the more immediate response and expenditure of these funds. This will help ensure addressing short-term goals as well as long-term goals.

Ms. Lee explained that allocations are different at the local levels. She is leading the opioid needs assessment for Washoe County. It is based on community-based participatory practice, and a lot of public input, including community survey and key informant interviews, with people who use drugs and service providers from a variety of sectors. Results are not finalized yet, as they are still analyzing a high volume of survey data. When you look at survey responses by respondent type – people who use opioids and their family members were the only group to add prevention education in their top five priorities among fourteen different options. She wants to ensure that prevention education is in the SURG priorities. She hears Ms. Nadler and she also hears those who use opioids.

Chief Krueger said the way the state has gone about identifying the needs is extremely important. He compared the opioid settlement to the tobacco settlement, where funds were spent on other things, such as buildings and stadiums. With the opioid settlement, the state adopted methods to identify evidence-based programs and services, including all different types of things from education to Narcan distribution. The DHHS will update the Needs Assessment every three to four years and change it to address what is working and what is not. Independent federal funds are allocated to services and programs, and there have been different settlement funds coming in, so they need a robust way to address the entire impact of the epidemic, with regular updates.

Ms. Johnson asked Mr. Krueger about his June 7<sup>th</sup> presentation regarding the timeline and funds for locals, asking if there is an update on disbursement to locals. She asked about the amount of funds disbursed and for contact information for people at the local levels who are leading that process.

Chief Krueger said he has no problem coming on a monthly basis with updates. Funds were just disbursed to cities and counties in the prior week, as the Attorney General's office prioritized this second allocation to go out right away. Almost \$50 million from the Johnson and Johnson settlement went out in July 2022. Another \$9.8 million was distributed in August 2022, and then almost \$10.4 million went out in September 2022. Funds were allocated and deposited with the FRN, and to One Nevada signatories.

Ms. Johnson asked if there is a list for folks in local areas to contact groups leading the charge, who folks in this meeting might want to engage.

Chief Krueger will work with Dr. Woodard to create a list for public information. Dr. Woodard explained that DHHS worked with [NACO](#) to develop county-level contacts to provide support with needs assessment. They will put the list together.

Ms. Nadler asked if there is a way to set aside emergency funding to address things like rainbow fentanyl that is currently getting into the schools. There are emails to parents warning of the danger of this coming into the schools.

Chair Ford reiterated that the SURG does not control how the money is spent, but they make recommendations to the State.

Dr. Woodard reiterated Mr. Krueger's statement that the FRN are not the only dollars that have been allocated to address the opioid crisis. Federal funding streams are ongoing, including some that are targeted toward prevention. One of the first lines of communication is to work with prevention coalitions statewide as subject matter experts and points of contact within each region. This is another opportunity to follow up with what they are currently doing with messaging that is appropriate for the community and their stakeholders.

Senator Seevers-Gansert noted different paths on the use of money with the State Plan versus local governments. She asked if there is any coordination between the locals and the state, and whether local expenditures fall under the guidance of the State Plan, or just within the settlement requirements.

Chief Krueger explained that the settlement does control how money is spent. In addition, the One Nevada agreement also restricts the use of funds to abatement of the opioid epidemic. Senate Bill 390 requires a State Plan, and the One Nevada agreement allows counties and cities to mirror programs and services in the State Plan. In addition, there is opportunity for grant money to maximize the funds and the programs. The counties are

authorized to do a county needs assessment and plan. It appears what's happening throughout the state is that counties are working with the state through NACO and with other counties, as well as other cities. The needs are different throughout the state, and DHHS is trying to address that. There is a push for everyone to create a needs assessment and to use the state's guidance, which is very robust.

Senator Seevers-Gansert asked for further clarification about the settlement amounts and the distribution schedule.

Chief Krueger clarified payments as follows: Johnson and Johnson totals approximately \$53 million, with \$50 million paid now and the remainder of \$2,675,000 due in April, 2025. He is putting together a spreadsheet with breakdowns which will be available to everyone.

Senator Seevers-Gansert referred to the Interim Finance Committee (IFC) reporting on ARPA (American Rescue Plan Act) funds with different buckets for state and local municipalities with detailed information on where funds are deposited and where they are spent, which is provided on a regular basis.

Chair Ford referenced the detailed spreadsheet presented by Chief Krueger at the June SURG meeting. The power point and the minutes are available online and could answer some of the questions members were asking. He also referenced erroneous news reports asserting funds already received, and he stated that it is erroneous to say that the state has already received \$231 million, now. Chair Ford requested that the minutes be emailed to everyone, and he confirmed that Mr. Krueger will provide updates at each meeting.

Chief Krueger clarified, again, that distributor settlements are 18 payments over 16 years because the first two payments came in the first year.

Ms. Lee wanted to address prevention efforts related to rainbow fentanyl. Her fifth grader goes to a small State of Nevada Charter School where federal agents talked with teachers, prompting PTO (Parent-Teacher Organization) members to contact her and the school principal. She will be training them on Narcan soon, and they inquired about fentanyl test strips, as well. So, that information is being infused at the local level, through federal agents, possibly the [DEA](#) or [HIDTA](#).

Ms. Nadler spoke with DEA in Washington, and she noted that the DEA 360 was defunded years ago, but they have a new program for schools that they will bring to Nevada. She does not feel that anyone is doing a needs assessment with the family members who are suffering. She asked if there is a way to share information from Washoe County with Clark County.

Ms. Lee said she isn't certain who the contacts are in Clark County, other than those at NACO, working on local level needs assessments.

Dr. Woodard has requested contact information from NACO and will provide that following this meeting.

Chair Ford thanked Mr. Krueger for his presentation.

#### **6. Review Timeline and Process for SURG Meetings and Recommendations. (For Possible Action)**

Vice Chair Tolles expressed gratitude for members and staff and subcommittee chairs. She recapped work from March through August with subject matter experts and updates from Mr. Krueger on the settlement. Subcommittees homed in on recommendations for consolidation and identified priorities for this report. She reminded members that this is an ongoing committee with areas for deeper dives and more robust discussion. For example, Harm Reduction cuts across all three subcommittees. She recommends a meeting with all three subcommittees to discuss harm reduction in more detail, with evidence-based best practices. It was determined to keep Harm Reduction within the Prevention Subcommittee for this year.

The goal is to identify cross over and opportunities for consolidation among the three subcommittees, or areas that may need more vetting that would be held for further review. Then they can take action on items with consensus.

October through December can be used to refine and consolidate the recommendations, with a vote in December on final recommendations for the report.

Another item arose regarding statutes or long-term funding plans. There is an immediate need right now, with funds getting closer to being released. Incredible subject matter experts serve on the SURG and the ACRN. There has been a suggestion to call together a joint meeting with ACRN and SURG members to talk about actionable items right now to help address expenditure of funds on state and local levels.

Final recommendations will go to the support team to write the report for final recommendations to be submitted in January. Two additional process recommendations are for the SURG working group to do a deeper dive on harm reduction with all the subcommittees; and for a joint meeting between the SURG and the ACRN to look at expenditure of funds in the short-term.

Ms. Nadler agreed with these recommendations and offered a motion to have a joint meeting with the ACRN.

Chair Ford said there was no need for a motion, as they are already looking into it.

Ms. Johnson asked if there was an opportunity to invite members from NACO to sit in on this joint meeting, with regard to local purview for expenditure of funds.

Chair Ford said it would be a public meeting and NACO can come if they like. The SURG addresses state issues, as does the ACRN. He emphasized the importance of lanes, and advised caution on mixing county and city approaches, which may cause some confusion. He recalled a contingent in southern Nevada with a public meeting across different levels of state, county and city representatives that was very complicated. It may be difficult to schedule timely meetings with multi-level partners.

Ms. Johnson thanked Chair Ford for the consideration and learning opportunity. She would appreciate an invitation to NACO, but the joint committee could clarify the intent to focus on state level efforts.

Vice Chair Tolles thanked members for their passion to ensure impact to stakeholders to show up in people's lives and not just on paper. Chair Ford reiterated this and the importance of taking their time to get it right. He asked that people also remember the work being done behind the scenes by state and county staff.

Dr. Woodard reminded members of the ACRN meeting on October 4<sup>th</sup>, where this would also be brought forward. The DHHS Director has recognized the need to come together to address issues holistically. There is a lot of effort going into this to avoid duplication, with mapping of resources and needs. This will bring to bear a lot of the work that has been done with the State Plan, to understand where all the federal dollars are going.

Chair Ford called for a four-minute break at 10:26 a.m. and called the meeting back to order at 10:30.

## **7. Discuss Preliminary Prioritization from SURG Subcommittees: 1) Prevention; 2) Treatment and Recovery; and 3) Response (*For Possible Action*)**

Senator Doñate introduced himself representing the Prevention Subcommittee. He recognized members of the subcommittee, noting their subject matter expertise. He reviewed the recommendations (also available on slides):

1. Continue to invest in standing up Community Health Workers, Peer Recovery [Support] Specialists, and Certified Prevention Specialists throughout Nevada.
2. Support a backbone agency that specializes in data collection, evaluation, analysis, and assessment, and provides consultation to entities across Nevada to help improve internal local data collection systems and create a comprehensive statewide data sharing system that includes all State dashboards and public data.
3. Support prevention and intervention in K-12 schools by: Invest in multi-tiered system of supports (MTSS) and provide a robust platform of services at schools to connect families to prosocial education, early intervention, counseling services, and other resources to help mitigate Adverse Childhood Experiences (ACES). Provide age appropriate, innovative and/or evidence-based prevention education and programming that is based on best practices and invest in certified prevention specialists in schools. Increase school-based mental health professionals through a multi-disciplinary, cross-department school-based behavioral health team.



4. Require the Department of Health and Human Services (DHHS) to allocate increased funding for the Prevention Coalitions to set aside funding for small grants to programs and grassroots efforts geared toward substance use prevention and education.
5. Expand Medicaid billing opportunities for preventive services and allow blended and braided funding to facilitate services to expand access to care for youth and adults.
6. Support Harm Reduction through:
  - Make a recommendation to DHHS to utilize opioid settlement dollars to designate a baseline level of identification and overdose reversal medication for the next 10 years in Nevada (base this on the state naloxone saturation plan) to create a stable, sustainable source of overdose reversal medication throughout the state.
  - Create a recommendation to the legislature modeled on Maryland's STOP Act which authorizes certain emergency medical services providers to dispense naloxone to individuals who received treatment for a nonfatal drug overdose or were evaluated by a crisis evaluation team, and requires certain community services programs, certain private and public entities, and hospitals to have a protocol to dispense naloxone to certain individuals free of charge under certain circumstances.
  - Promote telehealth for MAT, considering the modifications that have been made under the emergency policies.

He added their Note Support For:

- Joint Interim Standing Committee on Health and Human Services BDR #333 which revises provisions relating to community health workers

Ms. Lee asked about the recommendation on data evaluation and consultation. There is a scarcity of real time data that integrates with a public dashboard to notify communities in real time about overdose spikes. They try to mitigate this with [ODMAP](#), but if you don't put the data in, it doesn't come out. Also, it's only accessible for people in that system, which does no good for those who aren't in the system, and they miss a lot of spikes where they could have targeted community-based interventions. This is a crucial gap in preventing overdose, and it needs a statewide dashboard to coordinate throughout our communities.

Senator Doñate echoed Ms. Lee's comments. The opioid settlement funds won't be available forever and there is a need to focus on data collection to support grant applications. He thanked Ms. Lee for highlighting these issues.

Vice Chair Tolles thanked subcommittee members for these priorities and noted the importance of prevention. She asked if the recommendation for community health workers is to sustain existing investments or to expand existing investments, and whether it is intended to be statewide.

Senator Doñate suggested it was both to sustain and expand investment in these workers.

Mr. Schoen added that this priority is intentionally broad for specific policy recommendations, such as Medicaid reimbursement, but also to think broadly about the priority for standing up this workforce.

Ms. Lee added that all these certifications come through the Nevada Certification Board, which is unpaid, including the PRSS (Peer Recovery Support Specialist) advisory committee, the Community Health Worker advisory committee etc., with 1.5 FTE assigned to initial certification and renewal. She doesn't think this is enough staff as they are already drowning in applications. She asked if this recommendation would include supporting the Certification Board in this work. To avoid conflict of interest, Ms. Lee acknowledged that she sits on the Board of Directors and will recuse herself from any vote on this item.

Vice Chair Tolles said that final language could change to specify *continue and expand state investment for community health workers, Peer Recovery Specialists, Prevention Specialists throughout Nevada*; Senator Doñate concurred.

Regarding recommendation #2 for data collection, Vice Chair Tolles underlined the reference to a *backbone agency*, and she pointed out the opportunity for crossover with the Response Subcommittee. So, they will look at how they might specify appropriate agencies.



Vice Chair Tolles identified recommendation #3 as the heart of prevention, to stop children from taking that first dose or substance, even if unintentionally. She said each area proposed for investment was so important that it may need three separate recommendations: MTSS, ACES, and MH Specialists. Senator Doñate stated his support for three separate recommendations, with adequate funding. Ms. Nadler also stated her agreement.

Vice Chair Tolles said she thought recommendations #4 and #5 stand on their own. She said that components of recommendation #6 on Harm Reduction strategy would overlap with Treatment and Recovery as well as Response, and they could be consolidated in the final report.

Assemblywoman Thomas introduced the Treatment and Recovery Subcommittee members who are also subject matter experts: Chelsea Cheatom, Dr. Leslie Dickson, Jeffrey Iverson, Lisa Lee, and Steve Shell. She was proud of how they worked together to develop recommendations, which she reviewed:

1. Expand access to MAT and recovery support for SUD, limit barriers to individuals seeking treatment regardless of the ability to pay, and encourage the use of hub and spoke systems, as well as recovery support, including use and promotion of telehealth, considering the modifications that have been made under the emergency policies, and pursuing innovative programs such as establishing bridge MAT programs in emergency departments.
2. Engage individuals with live experience in programming design considerations.
3. Implement follow ups and referrals to support and care; linkage of care for justice involved individuals and pregnant or birthing persons with opioid use disorder
  - o She added that these came from Dr. Dickson and Lisa Lee with essential input.
4. Implement changes\* to recruitment, retention, and compensation of state frontline health care workers and enhance compensation in alignment with the Commission on Behavioral Health Board's letter to the Governor of June 22nd. \*See Oct 3 meeting attachment with highlighted Commission on Behavioral Health Draft Letter to Governor June 23, 2022, for details on changes.
5. To facilitate entry into treatment, ensure that BIPOC communities are receiving overdose prevention, recognition, and reversal training and overdose prevention supplies such as fentanyl test strips and naloxone to reduce fatal overdoses among Black and Latinx/Hispanic individuals in Nevada.
6. Significantly increased capacity is needed for intensive care coordination to facilitate transitions and to divert youth at risk of higher level of care and/or system involvement. Implement a specialized child welfare service delivery model that improves outcomes for children and families affected by parental substance use and child maltreatment.

Assemblywoman Thomas noted the diligence of subcommittee members and the importance of treatment and recovery.

Vice Chair Tolles suggested potential modifications to the priorities:

- For recommendation #1 to expand access to MAT, there is an opportunity for consolidation with Prevention, particularly including the use and promotion of telehealth;
- For recommendation #2 to engage individuals with lived experience, this also correlates to recommendations under the Response Subcommittee;
- Recommendation #3 to Implement follow ups and referrals to support and care correlates with individuals leaving the justice system;
- Recommendation #4 to Implement changes to recruitment, retention, and compensation of state frontline health care crosses over with the Prevention Subcommittee's first recommendation for CHWs, PRSSs, and CPSs with both referencing support for the workforce.
- Recommendation #6 addresses the need for intensive care and coordination, but needs clarification with regard to supporting more beds, which comes up in every Needs Assessment, in addition to wrap-around services.
  - o Assemblywoman Thomas agreed this recommendation should include the need to support more beds, to provide in-state services for children, keeping them closer to home.
  - o Ms. Nadler asked if this would include detox facilities for children, recalling she had to send her son to seven different states and then had to detox him at home.
  - o Assemblywoman Thomas said that this would include detox facilities.

Senator Seevers-Gansert described the difficulty getting capital for beds and support for staffing. She identified the need to partner with private industry to ensure sufficient funding and to expand the capacity. She wasn't sure about the exact language, but she underscored the need for a sustainable model.

Assemblywoman Thomas referenced the funding challenge to consider state-private funding and whether that might break existing rules.

Dr. Woodard apprised the group of current efforts. The Division for Health Care Financing and Policy received funding to evaluate children's behavioral health globally to determine authority for adequate access to children's systems of care. She encouraged SURG members to ensure specific recommendations go forward with their endorsement. There is also the 1115 demonstration waiver for IMD (institutions for mental disease) exclusions. Lack of beds in Nevada is partially due to dependence on federal grant funds. State Medicaid doesn't currently have funding for this in the State Plan, but this could at least pay for medical treatments for SUD outside of treatment facilities. The current waiver under negotiation with Centers for Medicare and Medicaid Services (CMS) would allow the state to pull down federal matching funds.

Vice Chair Tolles suggested the following language: *significantly increased capacity, including access to treatment facilities and beds for intensive care coordination to facilitate care transitions*. This language would clarify that it's increasing access, which would include various avenues to get there, whether through public-private partnerships or the programs Dr. Woodard described.

Assemblywoman Thomas agreed to include this language on "beds," and she appreciated Dr. Woodard's clarification. The members will discuss this further at their next subcommittee meeting to clarify the language.

Vice Chair Tolles presented four recommendations and a category "For Further Review," on behalf of the Response Subcommittee. She thanked members for their dedication.

Response Subcommittee Preliminary Recommendations Proposed Guiding Principle: Harmonize criminal justice and public health responses to promote access to treatment and medical care to reduce criminalization and punitive practices towards individuals with substance use disorder.

1. Support legislation to establish a statewide and regional Overdose Fatality Review (OFR) committees and recommend an allocation of funding to support the OFR 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.
2. Revise penalties based on the quantity of Fentanyl, analogs, or other synthetic drugs of high potency that are trafficked. (NRS 453.3385, NRS 453.336, 453.339, 453.3395)-Staff will check with the Board of Pharmacy on this language.
  - Chair Ford advised Vice Chair Tolles of a bill draft request (BDR) from his office to address this issue.
  - Vice Chair Tolles said Senator Seevers-Gansert also offered to support a BDR.
    - Ms. Johnson asked for clarification on research, noting that many other states passed policy or legislation that references changing quantities of different substances. There were reports of unintended impact on communities of color and increased incarceration. She wants to clarify intentionality and not bring further harm. As revisions go forward with the Board of Pharmacy, they should consider legislation from other states to avoid harm.
    - Vice Chair Tolles reviewed presentations and discussions regarding impact and unintended consequences. Some criminal justice reform legislation passed in 2019 to meet this intent of not criminalizing individuals. But, they included some highly lethal substances and there was the more recent explosion in Nevada of distribution and trafficking with fentanyl and risk to kids, e.g., rainbow fentanyl that was referenced earlier. This recommendation responds to unintended consequences to revise penalties to ensure amounts are tied to harm caused in communities. She encouraged members to review the presentation on lethal doses from the Response Subcommittee.

- Chair Ford's BDR specifically addresses fentanyl, but also references similar synthetic drugs. He is confident Ms. Johnson's concern will also be raised during the legislative session.
3. Leverage existing programs and funding to develop outreach response provider(s) and/or personnel that can respond to any suspected overdose 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 an institutional setting who is being discharged post overdose or suspected overdose.
    - a. Ms. Nadler asked if this would include family members with PTSD who are paying out of pocket for counseling and medication.
      - i. Ms. Holmes explained that this recommendation was consolidated from multiple items. Part of it came from the Arizona model for immediate follow up after an overdose, when an individual was either being released or in the event of death, a team is dispatched to the family to make those connections, but not necessarily for long-term therapy, but assistance with initial connections with a provider and assistance in getting insurance coverage.
    - b. Ms. Nadler asked if there is a way to add long-term support for families, e.g., those raising their grandchildren who are going back to school and are pre-disposed to use.
      - i. Chair Ford suggested this go back to the subcommittee for further discussion and clarification.
      - ii. Vice Chair Tolles committed to doing this follow up.
  4. Fund personnel and resources to investigate and prosecute drug-related crimes, including an independent medical examiner for reports that specify the cause of death in overdose cases where the source of the drug supply has been identified and can be prosecuted.
    - Ms. Lee expressed concern that this recommendation is in line with the drug-induced homicide law that criminalizes people who use drugs and who render aid for their friend, loved ones, or acquaintances, and then go to prison for drug induced homicide. This creates further tension and seems to fly in the face of the guiding statement to not further criminalize people who need treatment resources.
    - Vice Chair Tolles referenced Ms. Lee's presentation to the Response subcommittee, citing approximately 48% of those involved with an overdose were family members compared to approximately 41% who were drug traffickers. She said a deeper dive discussion is needed to balance these two needs.
    - Ms. Payson said that when it comes to this kind of case, and prosecuting for the drug induced homicides, these are very difficult cases to put together, and they need clear and convincing evidence that this is not someone who is a fellow user as someone who also has a substance use disorder. They are going after the people where there is clear and convincing evidence that they are high-level traffickers who are very well aware of potential deadly effects of what they are putting onto our streets. She attended a class on these types of investigations, and the state and federal prosecutors do not have time or the inclination to look at someone who is a low-level offender who called for help, because they happen to be using with a person who overdoses.
    - Chair Ford referenced the need to make recommendations for expenditure of limited funds and the need to find personnel. This recommendation for prosecutions may need to be tweaked, but they need to anticipate how the funds might be used to support something along these lines.
    - Vice Chair Tolles restated Ms. Lee's request for clarity in the recommendation, including the overdose fatality review. She will add in the services provided to loved ones following overdose, as well as the investigation for the independent medical examiner, and the good Samaritan Act. When the subcommittee comes back in December, there will be a little more clarity around how those interact under the guiding principle.
    - Ms. Lee thanked Ms. Payson for her comments which helped clarify a lot for her.

**For Further Review:**

Assemblywoman Tolles explained the need to hear from more subject matter experts on these issues.

- Resolve the conflict between the Good Samaritan Drug Overdose Act and Drug Induced Homicide Law; immediate actions may include recommending community-level education using best practice guidelines, as well as education for law enforcement personnel.
- Policy change to cover non-pharmacological or complementary treatments for pain, also to increase coverage of preventive and non-pharmaceutical, complementary and alternative (CAM) modalities.
  - This could fall into the Prevention Subcommittee, but they want to pursue SME and models used in other states, under one of the subcommittees.

Note Support For:

- Reform and fund criminal justice services to offer all three FDA approved medications for the treatment of opioid users.
  - Solicited input from the Board of Pharmacy to avoid limiting language by referring to categories of drugs in cases where similar drugs may have different names.

8. **Review an outline of the Annual Report to DHHS** (*For Possible Action.*)

Vice Chair Tolles referred to Dr. Kerns and Crystal Duarte for this item.

Dr. Kerns shared slide #30 with an outline for the report including:

- I. Introduction
- II. Executive Summary
- III. Background
  - I. Roles and Responsibilities of the SURG
- IV. Methodology
- V. Recommendations by Topic/Subcommittee
- VI. For Future Consideration
- VII. Conclusion
- VIII. Appendix
  - I. SURG Members by Appointments
  - II. Bylaws
  - III. NRS

Dr. Kerns explained the report will include links for all the detailed work from the subcommittees and presentations from subject matter experts. She reiterated the ongoing process for future recommendations, and what is actionable for recommendations, regarding policy, budget requirements, or legislation.

Dr. Kerns will go forward with this outline after final recommendations are received.

9. **Review and Consider Items for December 14, 2022, SURG Meeting** (*For Possible Action*)

Dr. Kerns noted the great and robust work from the members, and she reviewed the following outline of agenda items for the next SURG meeting, scheduled for December 14:

- Finalize recommendations to be included in the SURG Annual Report
- Finalize recommendations for bill draft requests
- Review outline of SURG Annual Report
- Presentation of DHHS Annual Report
- Meeting schedule for 2023; consider whether monthly meetings will still be needed.

Dr. Kerns confirmed there will also be regular updates on the settlement funds from Mr. Krueger.

Dr. Dickson wanted to know if the next meeting would be morning or afternoon. Ms. Rodriguez said it is scheduled for 9 a.m.

Dr. Woodard suggested an update from the joint committee meeting. The Governor has asked DHHS to take immediate action. One meeting is to be held between now and December 14th, and they will want to update the SURG.

Vice Chair Tolles proposed a discussion for temporary or long-term delegation of subcommittee chairs. Each chair who is a sitting legislator could assign a vice-chair or transition to a new chair.<sup>2</sup> It may be difficult to maintain the duties during session. It would be beneficial to have a discussion before then.

#### **10. Elect a new Vice Chair for the SURG**

Chair Ford explained this motion will be effective after the end of this meeting.

- Ms. Nadler made a motion to elect Senator Heidi-Gansert.
- Vice Chair Tolles seconded the motion.
- The motion carried unanimously.

Chair Ford thanked Vice Chair Tolles for her past and future work with the SURG. Vice Chair Tolles expressed gratitude for the work and expertise of members and promised to stay engaged as citizen Tolles.

#### **11. Public Comment**

Vice Chair Tolles referenced the presentation from Ms. Lee and Dr. Wagner regarding the Good Samaritan Law: the actual percentages are: 50% are friends and family compared to 48% who are traditional dealers.

Senator Seevers-Gansert thanked Vice Chair Tolles for her leadership and said they were sorry to see her go in the legislature, as well.

Assemblywoman Thomas thanked Vice Chair Tolles for her service and her beautiful smile on the floor of the Assembly. If not for her diligence with this program and for AG Ford, they would not be here right now.

Ms. Nadler also thanked Vice Chair Tolles for her work. She asked how to get something on an assembly bill to get Narcan mandated in all the schools. Vice Chair Tolles reminded Ms. Nadler that questions can't be answered under public comment, but they will follow up.

Dr. Woodard added to the chorus of gratitude for Vice Chair Tolles. She had the pleasure of seeing her champion the bill through the last legislative session, and she has brought so much to light and to ensure these conversations continue in public as well as behind the scenes, providing leadership and guidance. She thanked Vice Chair Tolles for the honor to serve with her on this committee.

Ms. Lee also thanked Vice Chair Tolles for being a friend to people in recovery, and she thanked her for her work.

Vice Chair Tolles thanked everyone for their work.

The meeting was adjourned at 11:59 a.m.

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<sup>2</sup> The SURG Bylaws require that the subcommittee members will serve for one year on the subcommittee. After one year, the Working Group chair (Chair Ford) will determine if the subcommittee needs to continue for another year. If the committee is needed for another year, the Working Group Chair will appoint the subcommittee chair and members from the Working Group.