

## MEETING NOTES

### Statewide Substance Use Response Working Group Response Subcommittee Meeting

Tuesday September 13, 2022

12:30 p.m.

Zoom Meeting ID: 880 3357 5831

Call In Audio: 669-900-6833

No Public Location

#### Members Present via Zoom or Telephone

Shayla Holmes, Dr. Terry Kerns, Gina Flores-O'Toole, Christine Payson, Assemblywoman Jill Tolles, and Dr. Stephanie Woodard

#### Attorney General's Office Staff

Joel Bekker (Deputy Attorney General), and Ashley Tackett

#### Social Entrepreneurs, Inc. Support Team

Crystal Duarte and Laura Hale

#### Members of the Public via Zoom

Tray Abney, Valerie Cauhape Haskin, Kim Donohue, Vanessa Dunn (Belz and Case Government Affairs), Dorothy Edwards, Ryan Hamilton, Madalyn Larson, Bethany Maplethorpe (City of Las Vegas, Municipal Court Trauma Court), and Lea Tauchen, Dawn Yohey

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

Chair Tolles called the meeting to order at 12:30 p.m. Crystal Duarte called the roll with five of six members present for a quorum (Ms. Flores-O'Toole joined the meeting at 1:00 p.m. and Dr. Woodard left the meeting at 2:32 p.m.).

### **2. Public Comment (*Discussion Only*) (12:35)**

Ms. Cauhape Haskin, Rural Regional Behavioral Health Coordinator, said she appreciated the recommendations she just read through, and she has comments related to crisis response teams and mobile teams, with strategies such as Forensic Assessment and Triage Team (FASTT) or something even more comprehensive for persons who are leaving incarceration or other detention facilities, particularly those with a history of substance use disorder or substance misuse leading to opioids. Beyond the teams, looking at programming to help them reenter the communities in a meaningful way, particularly at the county levels, that's not happening across the state. There is also other language the subcommittee might want to explore including NRS (Nevada Revised Statutes) relating to MDT (multi-disciplinary teams), with comprehensive case management, similar to what is written for ADSD (Aging and Disability Services Division). Unfortunately, that is focused on serious mental illness, and not necessarily co-occurring conditions, or persons with substance use disorder (SUD), and is also really focused on avoiding abuse or neglect. So, having some mechanism where counties can ensure that persons with substance misuse conditions, and/or complex behavioral health cases can really get some comprehensive case management would be great. She thanked the subcommittee members and noted her appreciation for their time. She clarified her reference to MDT to include law enforcement, health care, case managers, and behavioral health providers that may be working with an individual, outside of an IOTRC (Integrated Opioid Treatment and Recovery Center),

which is not really feasible for most communities. She also clarified her reference to ADSD, as Nevada's Ault Protection Services Agency.

**3. Review and Approve Minutes from August 23, 2022, Response Subcommittee Meeting (For Possible Action) (12:39)**

There were no questions or comments. Chair Tolles asked for a motion:

- Dr. Kerns made a motion to approve;
- Dr. Woodard seconded the motion;
- The motion passed unanimously.

**4. Finalize Subcommittee Recommendations (For Possible Action) (12:41)**

Chair Tolles described the recommendations process. Recommendations will go to the full SURG in October and then be finalized in December for a final report to the Legislature, the Governor, and the Department of Health and Human Services. This will include policy changes, budgetary requests, and use of settlement dollars, along with any other program strategies. She reminded members that her term will end in November, but she will continue working with the SURG as a member of the public. She passed on the subcommittee chair position to Dr. Terry Kerns, for the remainder of the meeting, to identify the five to ten recommendations.

Chair Kerns thanked Assemblywoman Tolles for everything she has done for the subcommittee and for the SURG, and she reminded members of their work at the last meeting to prioritize existing recommendations, consider new recommendations, and discuss ways to combine recommendations. They also completed a poll to reprioritize recommendations.

Ms. Duarte summarized the process of ranking forty-eight recommendations, including those ranked in July, and another ranking in September to include the new recommendations. Chair Kerns added that the slides were in order of priority and the recommendations were categorized, but they may warrant some additional consolidation.

Slides were reviewed and are available on the Attorney General's Office SURG webpage online at [https://ag.nv.gov/About/Administration/Substance\\_Use\\_Response\\_Working\\_Group\\_\(SURG\)/](https://ag.nv.gov/About/Administration/Substance_Use_Response_Working_Group_(SURG)/).

Chair Kerns explained that the recommendation for funding an [API for the ODMAP](#) system was resubmitted because the funding they thought was going to be in place was not. However, there may be future updates regarding temporary funding for a two-year period, so this recommendation could be put on the back burner.

Ms. Holmes referenced her recommendations for expansion of *maternal, infant, early childhood home visiting*, and also *evidence-based programs for families*, along with the recommendation to combine them. She recalled discussion at the previous meeting regarding a lack of recommendations for youth and the need to expand current programming. Ms. Holmes acknowledged Chair Kerns' question regarding whether these recommendations might fit better in one of the other subcommittees with prevention and intervention, but she does think it is a response from the community, and could fit depending on the programming and target area.

Ms. Holmes clarified for Dr. Woodard that she would identify the Fund for Resilient Nevada for these programs. Although there are other potential funding streams, they don't target substance use issues specifically. Dr. Woodard explained that home visiting and other family programs impacted by substance use or at risk for substance use had been identified in the Opioid Needs Assessment<sup>1</sup> and have been put forward as recommendations through the Advisory Committee for a Resilient Nevada (ACRN).

Chair Kerns moved on to the slides with Priority Recommendations. Dr. Woodard expressed concern with a lack of specificity about whether recommendations were for legislation – policy, funding, or both – to submit to the larger SURG. For example, statewide overdose fatality review committees (under recommendation for *Surveillance and Data*) would need legislation while local level committees might be under local authority, such as

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<sup>1</sup>Available online at [https://dhhs.nv.gov/Programs/Grants/Advisory\\_Committees/ACRN/Home/](https://dhhs.nv.gov/Programs/Grants/Advisory_Committees/ACRN/Home/)

health districts. She would recommend a bill draft request and sustainable funding including administrative support for meetings, data collection, and analysis. Dr. Woodard didn't think legislation would be needed to enable regions to establish their local committees, noting that there is already some exchange of information between health authorities and the Medical Examiner's Office or the Coroner's Office. Ms. Holmes agreed with Dr. Woodard's thinking that it probably could be done under Health Districts or other local authorities. Dr. Woodard suggested there could be express authority identified for regional overdose fatality review committees until it can be determined otherwise that it's not needed.

Assemblywoman Tolles identified multiple questions from a legislative standpoint for different authorities, appointees, and levels of oversight. Chair Kerns agreed it would depend on each jurisdiction, but there are categories and tool kits available at the federal level with guidance and best practices. Following the meeting, Chair Kerns shared a link to the [Bureau of Justice Assistance's OFR Resources page](#).

Ms. Payson noted the small number of cases would not support a full-time position in the Clark County district, so it would be an additional duty for existing staff.

Dr. Woodard suggested amending the recommendation to include *in accordance with established best practices*, and then review those best practices to aid in the development of their concept. Chair Kerns agreed with this, noting that existing standardized data sharing agreements between public safety and public health could also be part of the toolkit.

Chair Kerns suggested that the funding for the API for the ODMAP system could be set aside for now, given the availability of funds from the two-year funding stream.

With regard to the recommendation to fund an independent medical examiner, Chair Kerns asked Ms. Payson if she knew about implementation anywhere else. Ms. Payson said that the number of states that are actually able to go forward with these prosecutions seems to be pretty small, but she will do a little more checking.

Ms. Duarte read back the revised recommendation based on the discussion:

- 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.

Chair Kerns moved to the next recommendation for *Criminal and Civil Penalties* and the suggested revision to *revise penalties based on the quantity of Fentanyl that is trafficked (NRS: 453.3385; 453.336; 453.339; and 453.3395)*. (See slides for detail).

Ms. Payson reported discussion with staff from intergovernmental affairs and Metro, but she doesn't know that anyone has come to an agreement on what this should look like. She recalled from her previous presentation that the number of people killed by Fentanyl overdose is exponentially more than other drugs.

Chair Kerns raised the possibility of an omnibus bill – similar to one from Colorado – to include language on changing the charges based on trafficking weights, addressing the Good Samaritan law, and targeting trafficking as opposed to targeting individuals trying to help people who overdose.

Assemblywoman Tolles identified this as a priority for many members and thought it should stand on its own so that it doesn't get edited out of an omnibus recommendation. Then the legislature can decide how to address it. She supports the revised language with references to NRS as a very clear, strong recommendation. Specific details on the weights and correlation with overdose can be brought forward later, working with the bill sponsor.

(Mr. Bekker advised that updated details from Ms. Payson, regarding Fentanyl weights and rates of fatality could be put in the chat, because it will be included in the public record with the minutes as part of the minutes. Ms. Duarte also updated a screen that was shared with members and the public in real time).

Dr. Woodard described the proliferation of additional synthetic opioids hitting the drug market, so she is concerned about limiting the focus to fentanyl when other analogs have similar potency at very low levels, rendering existing statutory weights not applicable.

Chair Kerns suggested including references to fentanyl analogs or other synthetic drugs with similar potency that are trafficked. Dr. Woodard agreed this goes in the right direction and she suggested working with partners at the Board of Pharmacy to develop more specific language. Ms. Payson also agreed that this language is in the right direction. Chair Kerns noted this item for follow up with the Board of Pharmacy and possibly other state legislation.

Chair Kerns moved to the next slide/recommendation on the *Crisis Response System*.

Dr. Woodard asked if the second bullet is a request for an allocation of funding, or for Medicaid to cover Overdose Response as a service benefit, or a request for legislation to define the service, or a combination of all three.

Ms. Holmes acknowledged original input for some elements of this recommendation, and she supported a combination of all three elements that Dr. Woodard cited. She wasn't sure how this would be implemented with different Medicaid provider types.

Dr. Woodard noted there is currently a CMS (Centers for Medicare & Medicaid Services) Mobile Crisis planning grant and they are looking to establish designated mobile crisis teams to be deployed for any crisis, based on strict criteria. There is a challenge with fitting a 45-day support service into the current Medicaid structure. In addition, there is a question as to the ability to bill for crisis intervention through substance abuse agency model providers.

Chair Kerns referenced the 988 crisis response line and asked if there is a difference between that and outreach response teams, and the police response teams for overdose. She also wondered if police response teams were being recommended statewide or for specific jurisdictions.

Ms. Holmes distinguished the two recommendations as being separate, noting the need to create trust among the service population. She also referenced the 988 crisis response line in relation to individuals being released from institutional settings who may need an in-home response and establishing a long-term connection.

Ms. Payson agreed with Ms. Holmes in distinguishing the two recommendations. Law enforcement intervention for mental health and addiction (LIMA) is the overdose response team that she previously presented on, and they look to get the source of supply. It is a nine- to twelve-month pre-booking diversion program to address small level drug crimes. There is also a homeless outreach team with Las Vegas Metro. Ms. Payson felt it would be very beneficial statewide for any department to be able to do homeless outreach, with knowledge and resources beyond the average patrol officer. There is also a crisis intervention team with special training to provide guidance, including for people with mental illness or developmental disability.

Dr. Woodard said this recommendation may also relate to the Emergency Department Bridge programming they are working on with the Nevada Hospital Association, to provide recovery supports and/or formal treatment in different settings, and then linkage and referral for follow up care. She thought there could be some consolidation of recommendations, without specifying things like forty-five days or dispatching teams. This would allow them to leverage some of the existing programs and funding to address individual needs.

Ms. Holmes suggested the reference to "crisis" could be removed, so it would just be "outreach response." Chair Kerns liked this approach and proposed the following: *Leverage existing programs and funding to develop outreach response teams to respond to any suspected overdose and offer follow-up support, referrals and services to the individual and loved ones following an overdose.*

Dr. Woodard suggested removing the word "teams" because in some situations it is just an individual person responding. Further discussion resolved to replace "teams" with "provider or providers."

Ms. Payson referenced the separate recommendation for funding and asked if the outreach teams would be included under the new language. Chair Kerns said it would be included because the intent is to reduce harms through deflection, diversion, and offering medication assisted treatment (MAT). Dr. Woodard agreed that is part of the goal in broadening the language, to be inclusive without specifying any particular teams.

Chair Kerns moved to the specific recommendation for funding additional police overdose response teams. She noted that these teams don't exist throughout the state, and she asked if the goal is to have them statewide, and whether all jurisdictions have the personnel capacity for these teams.

Assemblywoman Tolles noted that the legislative budget committees often question whether to fund efforts without sufficient workforce or recruitment.

Chair Kerns suggested targeting areas with high crime rates, such as Clark County. Ms. Holmes thought this recommendation could be broadened, similar to the previous one, to support additional funding to investigate overdose-related crimes, removing the reference to "teams."

Assemblywoman Tolles asked how this would relate to the recommendation for an Independent Medical Examiner, and she questioned whether law enforcement and public health should be combined, given the separate intent to investigate overdose-related crimes. Chair Kerns suggested language to *fund personnel and resources to investigate and prosecute related crimes, including an independent medical examiner to specify the cause of death, and overdose cases where the source of the drug supply has been identified and can be prosecuted.*

Ms. Payson supported this language to hold people responsible.

Dr. Woodard asked if there would be an opportunity to review new language on these recommendations prior to voting on priorities. Chair Kerns agreed with doing another round of prioritization, based on the significant changes. Mr. Bekker advised against pushing out the changes and taking action via email; it would have to be done during a meeting or in supplemental materials for the next meeting so that it's all public matter and public knowledge.

Ms. Duarte explained that she was creating revised recommendations throughout the discussion that could be shared on the screen at the end of the meeting.

Assemblywoman Tolles suggested two potential directions: 1) Finish discussion of remaining recommendations with notes and revisions on screen, then vote based on those revisions, with a disclaimer that there may be additional revisions for the meeting in October, and members have the right to change their vote. 2) If they don't get there, they would have another meeting.

Chair Kerns moved to the next recommendation to *Revise and Update Nevada Statutes* (see slide for details).

Ms. Payson wondered if the last bullet to *Harmonize criminal justice and public health responses to promote access to treatment and medical care* could be combined with the previous recommendation relating to personnel for response and outreach. Assemblywoman Tolles saw this as a guiding principle to strike a balance between criminal justice and treatment and enforcement, but she noted that it doesn't specify any action. She suggested it could be an introductory statement for this section of the report for the Response Subcommittee.

Chair Kerns supported this suggestion and moved back to the remaining bullets to align NRS and Administrative Code. She recalled the presentation that identified the problem of people who are not calling 911 for fear of being arrested or held accountable for a drug-induced homicide. My Payson said this is a minimum number of cases (in Nevada) and law enforcement follows investigative leads such as text messages and social media for staunch proof of their case.

Chair Kerns recalled the concern that fentanyl test strips are considered drug paraphernalia, so that may become an educational component, and it is already in legislation. She asked members about moving forward with resolving *the conflict between the Good Samaritan Drug Overdoes Act and Drug Induced Homicide Law.*

Assemblywoman Tolles still had questions about how this works, such as whether a public education campaign could be used by individuals who are trafficking or selling drugs and who are responsible for deaths. She feels there are still contradictions, and suggested this item be reviewed further before prioritizing it.

Dr. Woodard agreed with this, noting the lack of specificity for how the laws should be changed, but she also underscored the sense of urgency expressed in the presentation. She suggested preparing additional information and resources for dissemination to individuals regarding their rights and protections, as well as additional training for law enforcement.

Chair Kerns agreed with Dr. Woodard and summarized that the broader recommendation would be held for further review, but in the meantime, there should be public education campaigns and training for law enforcement. Assemblywoman Tolles expressed remaining concerns about how public education campaigns might be misused.

Dr. Woodard referenced current public messaging campaigns under existing grants that provide quite a bit of evidence to support individuals to call when they are using drugs and they are in distress and potentially experiencing an overdose. She understands concerns about how messaging can be misinterpreted as endorsement; but there is good information on overdose education and harm reduction, and evidence has not been provided that these result in increased substance use.

Chair Kerns reiterated her previous summary for Ms. Duarte to update this recommendation, and she moved to the next slide on *Criminal Justice* (See slide for details). Chair Kerns noted an intersection with the previous discussion around outreach teams, but specifically targeting pre-arrest deflection.

Ms. Holmes identified areas of similarities with the previous discussion, and suggested enhancing crisis intervention team training, and educating law enforcement on eligible services to help with deflection.

Chair Kerns referenced the issue of forced detoxification and withdrawal management and ensuring that our criminal justice services offer all three FDA approved medications.

Dr. Woodard noted there is model legislation on establishing a statutory authority to allow for pre-arrest deflection programs that work with both substance use disorder and mental health disorders. Her understanding is that law enforcement organizations would be much more willing to entertain street-based deflection programs if there was some kind of expressed authority.

Dr. Woodard expressed concern with consolidation under bullet number three to offer FDA approved medications and implement follow-up and referral, with reduced criminalization. The Interim Joint Committee on Health and Human Services (IJCHHS) put forward a bill draft request (BDR) regarding the interface with those who are incarcerated. Also, there is a lack of specificity regarding reduced criminalization and punitive practices towards individuals with an OUD. Ms. Payson agreed with Dr. Woodard about this.

Ms. Holmes suggested language to *reform and fund criminal justice services to offer all three FDA approved medications*. In her experience, medication may not be offered in jails due to the cost, so local level funding would be important.

Dr. Woodard clarified that a BDR has been submitted to ensure individuals have access to all three FDA approved medications for treatment of OUD. She is still struggling with the element to *reduce criminalization and punitive practices*. Ms. Duarte clarified that this element came from a presentation to the IJCHHS. Dr. Woodard suggested this element be part of the guiding principle discussed previously.

Chair Kerns moved on to the next recommendation for *Funding/Treatment* (See slide for details). Ms. Flores-O'Toole reiterated the universal need for more beds. Dr. Woodard described a planning grant with the Division of Health Care Financing and Policy (DHCFP) regarding access to residential treatment and community-based withdrawal management. They submitted an 1115 demonstration waiver that is currently under negotiations with CMS to allow Medicaid reimbursement for residential treatment and community-based withdrawal management services, as well as residential treatment services. They anticipate approval for 2023, with an additional year

needed to go towards full implementation. This would free up federal grant funds for residential treatment facilities to expand the number of beds.

Ms. Flores-O'Toole said that's perfect and offered to withdraw the recommendation.

Chair Kerns moved to the next slide for *Other* recommendations (See Slide for details).

Dr. Woodard had a question about the policy change to cover non-pharmacological or complementary treatment, and whether it is intended to expand coverage within the State Medicaid Plan or across all insurers in the state, and whether that would be done through legislation. With regard to the user-oriented searchable website, the Behavioral Health website includes a repository of all state-certified programs and locations that can be searched by level of care, geographic location, and adult of adolescent services. She recommended reformulating this recommendation to optimize the 211 database to meet this goal.

Ms. Holmes referenced the earlier discussion about maternal infant, early childhood home visiting programs. With regard to treatment coverage, she hopes that could be for insurance policies overall.

Chair Kerns asked if some of these might fit better under another subcommittee, possibly prevention. Ms. Payson thought treatment coverage might fit better under treatment. Assemblywoman Tolles suggested moving this item for further discussion.

Chair Kerns summarized they would move the recommendation for treatment coverage for further review; they would support the existing searchable website; and home visiting programs was covered under the earlier discussion.

Ms. Duarte shared her screen with five recommendations, including revised language, overarching principles, and items for further review. Chair Kerns reviewed them making updates with input from committee members, resulting in four recommendations and two items for further review. She noted that there may be slight revisions prior to the October presentation, based on additional information or word-smithing they might do.

Chair Kerns asked for a motion:

- Assemblywoman Tolles made a motion to move forward these four recommendations and two additional recommendations for future consideration for discussion at the October SURG meeting.
- Ms. Payson seconded the motion.
- Shayla Holmes and Gina Flores-O'Toole indicated agreement with these recommendations.

5. **Public Comment** (*For Possible Action*)

There was no public comment

6. **Adjournment**

The meeting was adjourned at 2:46 p.m.

Chat Record

Crystal Duarte (she/her): Good afternoon, please note that chat should only be used to communicate with the meeting host regarding technical difficulties. We do not receive public comment via chat.

Crystal Duarte (she/her): Please mute yourself when you are not speaking. Thank you!

Crystal Duarte (she/her): I have been creating revised recommendations in a new slide that hopefully we can share after we get through the other recommendations.