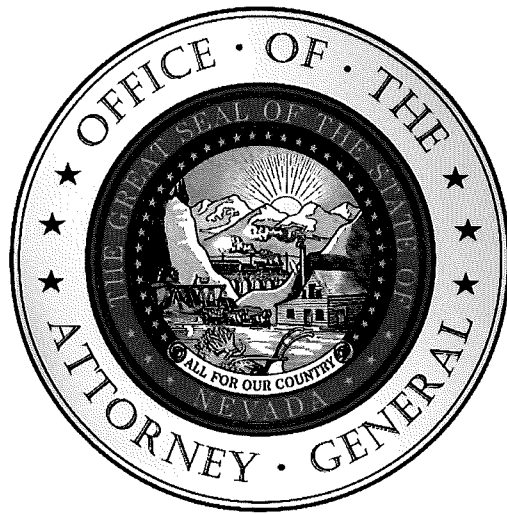


# **Agenda Item #8**

## **Attachment C**

**Nevada Substance Abuse Working Group  
2017 Report  
Wes Duncan**



**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 11<sup>th</sup> 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 8<sup>th</sup> Judicial District Court, regarding specialty court programs in the 8<sup>th</sup> 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 8<sup>th</sup> 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.

# **Agenda Item #9**

## **Attachment D**

**\*Summary of BDRs addressing Opioid or Drug Abuse.**

**\*SB 59 (Requires the reporting of certain information to the database of the program to monitor prescriptions for certain controlled substances).**

**Linda Lang**

**Attorney General's Substance Abuse Working Group**  
**Wednesday, February 8, 2017**

**Prepared by Linda Lang, NV Statewide Coalition Partnership**  
**With input from Ferrari Public Affairs**

Updated through Monday, February 6, 2017

<b>Bill #</b>	<b>BDR #</b>	<b>Sponsor</b>	<b>Description</b>	<b>Notes</b>
	30	Farley	Revises provisions relating to controlled substances.	Placeholder – until further direction from Governor's Office
	543	Farley	Revises provisions relating to the sale of certain medications.	Dextromethorphan/cough syrup
	612	Gansert	Revises provisions relating to controlled substances.	Possibly to address quantities prescribed
	17	Parks; Joint Requester: Kieckhefer	Revises provisions governing prescribing, dispensing and administering controlled substances designed to end the life of a patient.	Possibly Death with Dignity – similar to legislation passed in OR and CA
	279	Denis	Revises provisions relating to public safety.	Possibly has a Prescription Drug Abuse angle
	284	Joiner	Provides for transparency in prescription drug costs.	Possibly addresses disclosure of reasons for a prescription drug price increase.
SB59	386	Attorney General	Revises provisions relating to reporting of information to the program of the State Board of Pharmacy to monitor prescriptions for controlled substances.	

576	Senate Committee on Health and Human Services	Revises provisions relating to controlled substances.	Authorizes cannabis to be used to break opioid addiction by amending list of uses in authorization for medical marijuana, and would expand ability to authorize that use to other types of providers.
620	Assembly Committee on Health and Human Services	Revises provisions governing the acquisition and use of opioid antagonists.	Would make naloxone OTC with certain restrictions.
634	Gansert	Requires pharmacies to accept unused medication under certain circumstances.	May address the "takeback" bags/ distribution on a wider basis.
698	Spiegel	Makes various changes concerning insurance practices related to prescription medication.	
729	Woodbury	Revises provisions governing physicians.	
795	Farley	Revises provisions relating to youth risk behavior surveillance surveys.	Would track region-specific drug abuse trends, identify motivations/risk factors associated with drug abuse, generate directed prevention programming, evaluate prevention programming, provide resources for parents and children to discuss the complex issues of drug abuse, and provide access to national experts as resources in developing public policy in Nevada.
809	Cancela	Revises provisions governing health care.	
813	Woodbury	Revises provisions governing health care.	
816	Cannizzarro	Revises provisions governing health care.	



SENATE BILL NO. 59—COMMITTEE ON  
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED NOVEMBER 17, 2016

Referred to Committee on Health and Human Services

SUMMARY—Requires the reporting of certain information to the database of the program to monitor prescriptions for certain controlled substances. (BDR 40-386)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
Effect on the State: Yes.

EXPLANATION – Matter in *bolded italics* is new, matter between brackets ~~{omitted material}~~ is material to be omitted.

AN ACT relating to controlled substances; requiring a law enforcement officer who encounters certain situations relating to prescribed controlled substances or who receives a report of a stolen prescription for a controlled substance to report certain information to his or her employer; requiring the employer of such a law enforcement officer to upload such reported information to the database of the program developed by the State Board of Pharmacy and the Investigation Division of the Department of Public Safety to monitor prescriptions for certain controlled substances; providing a penalty; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

1 Existing law requires the State Board of Pharmacy and the Investigation  
2 Division of the Department of Public Safety to develop a computerized program to  
3 track each prescription for certain controlled substances filled by a pharmacy or  
4 dispensed by a practitioner registered with the Board. The program is required to be  
5 designed to provide information regarding: (1) the inappropriate use by a patient of  
6 certain controlled substances to pharmacies, practitioners and appropriate state and  
7 local governmental agencies to prevent the improper or illegal use of such  
8 controlled substances; and (2) statistical data relating to the use of those controlled  
9 substances. (NRS 453.162) Existing law requires the Board to allow certain law  
10 enforcement officers to have Internet access to the database of the program only for  
11 the purpose of investigating a crime related to prescription drugs. (NRS 453.165)



\* S B 5 9 \*

12 **Section 1** of this bill requires a law enforcement officer who encounters certain  
13 situations involving prescribed controlled substances or who receives a report of a  
14 stolen prescription for a controlled substance while acting in his or her official  
15 capacity to report certain information to his or her employer. **Section 1** also  
16 requires the employer of the law enforcement officer to upload such reported  
17 information to the database of the program as soon as practicable after receiving the  
18 information unless the employer determines that uploading the information will  
19 interfere with an active criminal investigation, in which case the employer may  
20 postpone uploading the information until after the conclusion of the investigation.  
21 **Section 1** further provides that each law enforcement officer or employer of a law  
22 enforcement officer who makes a good faith effort to comply with **section 1**, or a  
23 regulation adopted pursuant thereto, is immune from civil and criminal liability  
24 for any act or omission relating to the transmission of information pursuant to  
25 **section 1**.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 453 of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3 *1. If a law enforcement officer, while acting in his or her*  
4 *official capacity:*

5 *(a) Encounters a situation in which the law enforcement*  
6 *officer has reasonable suspicion that a violation of this chapter*  
7 *involving a prescription for a controlled substance is occurring or*  
8 *has occurred;*

9 *(b) Encounters a person who the law enforcement officer*  
10 *believes is experiencing or, immediately before the encounter, has*  
11 *experienced an overdose as a result of using a prescribed*  
12 *controlled substance;*

13 *(c) Encounters a deceased person who the law enforcement*  
14 *officer believes died as a result of using a prescribed controlled*  
15 *substance; or*

16 *(d) Receives a report of a stolen prescription for a controlled*  
17 *substance,*  
18 *↳ the law enforcement officer shall report to his or her employer*  
19 *the information required by subsection 2.*

20 *2. A law enforcement officer who is required to report*  
21 *information pursuant to subsection 1 shall report to his or her*  
22 *employer the following information, to the extent such*  
23 *information is available and applicable:*

24 *(a) The name of the person who:*

25 *(1) Is suspected of violating this chapter;*

26 *(2) Is believed to have experienced an overdose as a result*  
27 *of using a prescribed controlled substance;*

28 *(3) Is believed to have died as a result of using a prescribed*  
29 *controlled substance; or*



- 1           (4) *Filed the report of a stolen prescription for a controlled*  
2 *substance.*
- 3           (b) *The name of the person to whom the controlled substance*  
4 *involved in an event described in subsection 1 is prescribed.*
- 5           (c) *If a prescription container for the controlled substance is*  
6 *found in the vicinity of the location of an event described in*  
7 *paragraph (a), (b) or (c) of subsection 1 or if a prescription for a*  
8 *controlled substance is reported stolen:*
- 9           (1) *The name of the prescribing practitioner;*  
10           (2) *The prescription number; and*  
11           (3) *The name of the controlled substance as it appears on*  
12 *the prescription container or prescription order.*
- 13        3. *Except as otherwise provided in subsection 4, an employer*  
14 *of a law enforcement officer who receives information pursuant to*  
15 *subsection 2 shall, as soon as practicable after receiving such*  
16 *information, upload to the database of the program established*  
17 *pursuant to NRS 453.162 notice of the occurrence of an event*  
18 *described in subsection 1 and the information received pursuant to*  
19 *subsection 2. The employer shall ensure that only a law*  
20 *enforcement officer who is authorized to access the database of*  
21 *the program pursuant to NRS 453.165 uploads such information.*
- 22        4. *If an employer of a law enforcement officer determines*  
23 *that uploading any information to the database of the program*  
24 *pursuant to subsection 3 will interfere with an active criminal*  
25 *investigation, the employer may postpone uploading such*  
26 *information until after the conclusion of the investigation.*
- 27        5. *Each law enforcement officer or employer of a law*  
28 *enforcement officer who makes a good faith effort to comply with*  
29 *this section, or a regulation adopted pursuant thereto, is immune*  
30 *from civil and criminal liability for any act or omission relating to*  
31 *the transmission of information pursuant to this section.*
- 32        6. *As used in this section, "law enforcement officer" has the*  
33 *meaning ascribed to it in NRS 453.165.*
- 34        **Sec. 2.** NRS 453.162 is hereby amended to read as follows:  
35        453.162 1. The Board and the Division shall cooperatively  
36 develop a computerized program to track each prescription for a  
37 controlled substance listed in schedule II, III or IV that is filled by  
38 a pharmacy that is registered with the Board or that is dispensed by  
39 a practitioner who is registered with the Board. The program must:  
40        (a) Be designed to provide information regarding:  
41           (1) The inappropriate use by a patient of controlled  
42 substances listed in schedules II, III and IV to pharmacies,  
43 practitioners and appropriate state and local governmental agencies,  
44 including, without limitation, law enforcement agencies and



1 occupational licensing boards, to prevent the improper or illegal use  
2 of those controlled substances; and  
3 (2) Statistical data relating to the use of those controlled  
4 substances that is not specific to a particular patient.  
5 (b) Be administered by the Board, the Investigation Division,  
6 the Division of Public and Behavioral Health of the Department and  
7 various practitioners, representatives of professional associations for  
8 practitioners, representatives of occupational licensing boards and  
9 prosecuting attorneys selected by the Board and the Investigation  
10 Division.  
11 (c) Not infringe on the legal use of a controlled substance for the  
12 management of severe or intractable pain.  
13 (d) Include the contact information of each person who is  
14 required to access the database of the program pursuant to NRS  
15 453.164, including, without limitation:  
16 (1) The name of the person;  
17 (2) The physical address of the person;  
18 (3) The telephone number of the person; and  
19 (4) If the person maintains an electronic mail address, the  
20 electronic mail address of the person.  
21 (e) To the extent that money is available, include:  
22 (1) A means by which a practitioner may designate in the  
23 database of the program that he or she suspects that a patient is  
24 seeking a prescription for a controlled substance for an improper or  
25 illegal purpose. If the Board reviews the designation and determines  
26 that such a designation is warranted, the Board shall inform  
27 pharmacies, practitioners and appropriate state agencies that the  
28 patient is seeking a prescription for a controlled substance for an  
29 improper or illegal purpose as described in subparagraph (1) of  
30 paragraph (a).  
31 (2) The ability to integrate the records of patients in the  
32 database of the program with the electronic health records of  
33 practitioners.  
34 2. The Board, the Division and each employee thereof are  
35 immune from civil and criminal liability for any action relating to  
36 the collection, maintenance and transmission of information  
37 pursuant to this section and NRS 453.163 and 453.164 *and section*  
38 *1 of this act* if a good faith effort is made to comply with applicable  
39 laws and regulations.  
40 3. The Board and the Division may apply for any available  
41 grants and accept any gifts, grants or donations to assist in  
42 developing and maintaining the program required by this section.  
43 **Sec. 3.** NRS 453.164 is hereby amended to read as follows:  
44 453.164 1. The Board shall provide Internet access to the  
45 database of the program established pursuant to NRS 453.162 to an



1 occupational licensing board that licenses any practitioner who is  
2 authorized to write prescriptions for controlled substances listed in  
3 schedule II, III or IV.

4 2. The Board and the Division must have access to the program  
5 established pursuant to NRS 453.162 to identify any suspected  
6 fraudulent or illegal activity related to the dispensing of controlled  
7 substances.

8 3. The Board or the Division shall report any activity it  
9 reasonably suspects may:

10 (a) Be fraudulent or illegal to the appropriate law enforcement  
11 agency or occupational licensing board and provide the law  
12 enforcement agency or occupational licensing board with the  
13 relevant information obtained from the program for further  
14 investigation.

15 (b) Indicate the inappropriate use by a patient of a controlled  
16 substance to the occupational licensing board of each practitioner  
17 who has prescribed the controlled substance to the patient. The  
18 occupational licensing board may access the database of the  
19 program established pursuant to NRS 453.162 to determine which  
20 practitioners are prescribing the controlled substance to the patient.  
21 The occupational licensing board may use this information for any  
22 purpose it deems necessary, including, without limitation, alerting a  
23 practitioner that a patient may be fraudulently obtaining a controlled  
24 substance or determining whether a practitioner is engaged in  
25 unlawful or unprofessional conduct. This paragraph shall not be  
26 construed to require an occupational licensing board to conduct an  
27 investigation or take any action against a practitioner upon receiving  
28 information from the Board or the Division.

29 4. The Board and the Division shall cooperatively develop a  
30 course of training for persons who are required to receive access to  
31 the database of the program pursuant to subsection 6 and require  
32 each such person to complete the course of training before the  
33 person is provided with Internet access to the database.

34 5. Each practitioner who is authorized to write prescriptions for  
35 and each person who is authorized to dispense controlled substances  
36 listed in schedule II, III or IV shall complete the course of  
37 instruction described in subsection 4. The Board shall provide  
38 Internet access to the database to each such practitioner or other  
39 person who completes the course of instruction.

40 6. Each practitioner who is authorized to write prescriptions for  
41 controlled substances listed in schedule II, III or IV shall, to the  
42 extent the program allows, access the database of the program  
43 established pursuant to NRS 453.162 at least once each 6 months to:



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1 (a) Review the information concerning the practitioner that is  
2 listed in the database and notify the Board if any such information is  
3 not correct; and

4 (b) Verify to the Board that he or she continues to have access to  
5 and has accessed the database as required by this subsection.

6 7. Information obtained from the program relating to a  
7 practitioner or a patient is confidential and, except as otherwise  
8 provided by this section and NRS 239.0115, 453.162 and 453.163,  
9 must not be disclosed to any person. That information must be  
10 disclosed:

11 (a) Upon the request of a person about whom the information  
12 requested concerns or upon the request on behalf of that person by  
13 his or her attorney; or

14 (b) Upon the lawful order of a court of competent jurisdiction.

15 8. If the Board, the Division or a law enforcement agency  
16 determines that the database of the program has been intentionally  
17 accessed by a person or for a purpose not authorized pursuant to  
18 NRS 453.162 to 453.165, inclusive, *and section 1 of this act*, the  
19 Board, Division or law enforcement agency, as applicable, must  
20 notify any person whose information was accessed by an  
21 unauthorized person or for an unauthorized purpose.

22 **Sec. 4.** NRS 453.165 is hereby amended to read as follows:

23 453.165 1. Except as otherwise provided in this section, the  
24 Board shall allow a law enforcement officer to have Internet access  
25 to the database of the computerized program developed pursuant to  
26 NRS 453.162 if:

27 (a) The primary responsibility of the law enforcement officer is  
28 to conduct investigations of crimes relating to prescription drugs;

29 (b) The law enforcement officer has been approved by his or her  
30 employer to have such access;

31 (c) The law enforcement officer has completed the course of  
32 training developed pursuant to subsection 4 of NRS 453.164; and

33 (d) The employer of the law enforcement officer has submitted  
34 the certification required pursuant to subsection 2 to the Board.

35 2. Before a law enforcement officer may be given access to the  
36 database pursuant to subsection 1, the employer of the officer must  
37 certify to the Board that the law enforcement officer has been  
38 approved to be given such access and meets the requirements of  
39 subsection 1. Such certification must be made on a form provided  
40 by the Board and renewed annually.

41 3. When a law enforcement officer accesses the database of the  
42 computerized program pursuant to this section, the officer must  
43 enter a unique user name assigned to the officer and, *if applicable*,  
44 the case number corresponding to the investigation being conducted  
45 by the officer.



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1 4. A law enforcement officer who is given access to the  
2 database of the computerized program pursuant to subsection 1 may  
3 access the database *for no other purpose than* to ~~investigate~~ :  
4 (a) *Investigate* a crime related to prescription drugs ~~and for no~~  
5 ~~other purpose~~; or  
6 (b) *Upload information to the database pursuant to section 1*  
7 *of this act.*  
8 5. The employer of a law enforcement officer who is provided  
9 access to the database of the computerized program pursuant to this  
10 section shall monitor the use of the database by the law enforcement  
11 officer and establish appropriate disciplinary action to take against  
12 an officer who violates the provisions of this section.  
13 6. The Board or the Division may suspend or terminate access  
14 to the database of the computerized program pursuant to this section  
15 if a law enforcement officer or his or her employer violates any  
16 provision of this section.  
17 7. As used in this section, "law enforcement officer" means  
18 any person upon whom some or all of the powers of a peace officer  
19 are conferred pursuant to NRS 289.150 to 289.360, inclusive.  
20 **Sec. 5.** NRS 453.552 is hereby amended to read as follows:  
21 453.552 1. Any penalty imposed for violation of NRS  
22 453.011 to 453.551, inclusive, *and section 1 of this act*, is in  
23 addition to, and not in lieu of, any civil or administrative penalty or  
24 sanction otherwise authorized by law.  
25 2. Any violation of the provisions of NRS 453.011 to 453.551,  
26 inclusive, *and section 1 of this act*, where no other penalty is  
27 specifically provided, is a misdemeanor.  
28 **Sec. 6.** This act becomes effective on July 1, 2017.

