



## OFFICE OF THE ATTORNEY GENERAL

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# RESPONSE SUBCOMMITTEE

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Substance Use Response Group (SURG)

April 19, 2023

11:00 am

**1. CALL TO ORDER AND  
ROLL CALL TO ESTABLISH  
QUORUM**

Chair Kerns

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

| <b>Member</b>                | <b>SURG Role</b>                   | <b>Committee Role</b> |
|------------------------------|------------------------------------|-----------------------|
| <b>Christine Payson</b>      | Sheriffs' & Chiefs' Assoc.         | Member                |
| <b>Dr. Stephanie Woodard</b> | DHHS Director Appointee            | Member                |
| <b>Dr. Terry Kerns</b>       | Attorney General Appointee         | Chair                 |
| <b>Shayla Holmes</b>         | Rural Human Services (Lyon County) | Vice Chair            |
| <b>Gina Flores-O'Toole</b>   | SUD Treatment Provider             | Member                |

## **2. PUBLIC COMMENT**

# Public Comment

- Public comment will be received via Zoom by raising your hand or unmuting yourself when asked for public comment. Public comment shall be limited to three (3) minutes per person (this is a period devoted to comments by the general public, if any, and discussion of those comments). No action may be taken upon a matter raised during a period devoted to comments by the general public until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to NRS 241.020.

**3. REVIEW AND APPROVE  
OCTOBER 27, 2022 RESPONSE  
SUBCOMMITTEE MEETING  
MINUTES**

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Chair Kerns

# **4. REVIEW 2023 SUBCOMMITTEE GUIDANCE**

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Chair Kerns

# 2023 Subcommittee Guidance

In 2023, SURG subcommittee members are asked to:

- Submit recommendations you can present on your own whenever possible; or,
- If you have a tangible recommendation you do not feel that you can present on, then suggest a subject matter expert who can provide a specific, targeted presentation related to the recommendation.
- Provide 5-minute presentations on each recommendation, with time for questions and discussion following the presentation.



# 2023 Subcommittee Guidance Continued

- Please do not include recommendations that are in the 2022 SURG report. However, if there was a recommendation previously included in the annual report that was listed as "needs further research," you can resubmit along with additional research for the subcommittee to consider.
- Rather than utilizing an iterative weighting process, in 2023 subcommittees will be encouraged to present, discuss, and refine recommendations in the spring/summer and then weight recommendations for inclusion in the fall for the final report.
- A full SURG meeting dedicated to Harm Reduction took place on April 5, 2023.

# Survey Feedback: What worked well?

- Subcommittees (5)
  - “Able to cover more ground and move things along”
  - “Prioritization process”
  - “Discussion of recommendations”
- SEI coordination and staff organization (4)
- Shared documents to compile information (2)

# Survey Feedback: What could be improved?

- Presentations on contested recommendations at SURG
- Better definition of subcommittees or full SURG meeting dedicated to the cross over recommendations
- Clarification on the recommendation ranking process
- More predictable schedule of meetings, especially for subcommittees
- Length of meetings should be shortened to 90 minutes or less
- Addressing harm reduction in its own separate capacity, harm reduction-specific subcommittee
- Asking SURG members what they would like to learn from presentations
- More presentations from providers instead of from the state
- Better adherence to public comment period time limits

Any additional feedback from  
Response Subcommittee members  
before we start the 2023  
recommendations process?

**5. REVIEW AB374 SECTION 10  
REQUIREMENTS SPECIFIC TO  
RESPONSE SUBCOMMITTEE AND  
RECOMMENDATIONS IN 2022 ANNUAL  
REPORT**

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Chair Kerns

# AB374 Section 10 Cross-Cutting Elements Assigned to all Subcommittees (part one)

- (b) **Assess evidence-based strategies for preventing substance use and intervening to stop substance use**, including, without limitation, the use of heroin, other synthetic and non-synthetic opioids and stimulants. Such strategies must include, without limitation, strategies to:
  - (1) Help persons at risk of a substance use disorder avoid developing a substance use disorder;
  - (2) Discover potentially problematic substance use in a person and intervene before the person develops a substance use disorder;
  - (3) Treat the medical consequences of a substance use disorder in a person and facilitate the treatment of the substance use disorder to minimize further harm; and
  - (4) Reduce the harm caused by substance use, including, without limitation, by preventing overdoses.
- (c) **Assess and evaluate existing pathways to treatment and recovery for persons with substance use disorders, including**, without limitation, such persons who are **members of special populations**.

# AB374 Section 10 Cross-Cutting Elements Assigned to all Subcommittees (part two)

- (h) **Examine qualitative and quantitative data to understand the risk factors** that contribute to substance use and the rates of substance use and substance use disorders, **focusing on special populations.**
- (q) **Study, evaluate, and make recommendations to the Department of Health and Human Services concerning the use of the money described in section 10.5 of this act to address substance use disorders,** with a focus on:
  - (1) The use of the money described in subsections 1, 2 and 3 of section 10.5 of this act to supplement rather than supplant existing state or local spending;
  - (2) The use of the money described in section 10.5 of this act to support programs that use evidence-based interventions;
  - (3) The use of the money described in section 10.5 of this act to support programs for the prevention of substance use disorders in youth;
  - (4) The use of the money described in section 10.5 of this act to improve racial equity; and
  - (5) Reporting by state and local agencies to the public concerning the funding of programs to address substance misuse and substance use disorders.

# Response Subcommittee AB374

## Section 10 Assignments (part one)

- **(d) Work to understand how residents of this State who are involved in the criminal justice system access supports for treatment of and recovery from substance use disorders** at various points, including, without limitation, by reviewing existing diversion, deflection and reentry programs for such persons.
- **(i) Develop strategies for local, state and federal law enforcement and public health agencies to respond to and prevent overdoses** and plans for implementing those strategies.
- **(k) Recommend strategies to improve coordination between local, state and federal law enforcement and public health agencies** to enhance the communication of timely and relevant information relating to substance use and reduce duplicative data collection and research.



# Response Subcommittee AB374

## Section 10 Assignments (part two)

- **(l) Evaluate current systems for sharing information between agencies** regarding the trafficking and distribution of legal and illegal substances which are associated with substance use disorders, including, without limitation, heroin, other synthetic and non-synthetic opioids and stimulants.
- **(m) Study the effects of substance use disorders on the criminal justice system,** including, without limitation, law enforcement agencies and correctional institutions.
- **(n) Study the sources and manufacturers of substances which are associated with substance use disorders,** including, without limitation, heroin, other synthetic and non-synthetic opioids and stimulants, and methods and resources for preventing the manufacture, trafficking and sale of such substances.

# Response Subcommittee AB374

## Section 10 Assignments (part three)

- (o) **Study the effectiveness of criminal and civil penalties at preventing the misuse of substances and substance use disorders and the manufacture, trafficking and sale of substances which are associated with substance use disorders**, including, without limitation, heroin, other synthetic and non-synthetic opioids and stimulants.
- (p) **Evaluate the effects of substance use disorders on the economy of this State.**

# 2022 SURG Annual Report Recommendations as Aligned with Response Subcommittee AB374 Section 10 Assignments (part one)

- **(d) Work to understand how residents of this State who are involved in the criminal justice system access supports for treatment of and recovery from substance use disorders** at various points, including, without limitation, by reviewing existing diversion, deflection and reentry programs for such persons.
- *Implement follow ups and referrals and linkage of care for justice involved individuals, including individuals leaving the justice system, and pregnant or birthing persons with opioid use disorder (Treatment and Recovery #3)*

# 2022 SURG Annual Report Recommendations as Aligned with Response Subcommittee AB374 Section 10 Assignments (part two)

- **(i) Develop strategies for local, state and federal law enforcement and public health agencies to respond to and prevent overdoses** and plans for implementing those strategies.
- *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. (Response #1)*

# 2022 SURG Annual Report Recommendations as Aligned with Response Subcommittee AB374 Section 10 Assignments (part three)

- **(k) Recommend strategies to improve coordination between local, state and federal law enforcement and public health agencies** to enhance the communication of timely and relevant information relating to substance use and reduce duplicative data collection and research.
  - *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. (Prevention #2)*

# 2022 SURG Annual Report Recommendations as Aligned with Response Subcommittee AB374 Section 10 Assignments (part four)

- **(1) Evaluate current systems for sharing information between agencies** regarding the trafficking and distribution of legal and illegal substances which are associated with substance use disorders, including, without limitation, heroin, other synthetic and non-synthetic opioids and stimulants.
  - *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. (Prevention #2)*

# 2022 SURG Annual Report Recommendations as Aligned with Response Subcommittee AB374 Section 10 Assignments (part five)

- **(m) Study the effects of substance use disorders on the criminal justice system**, including, without limitation, law enforcement agencies and correctional institutions.
- *For Further Review: 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.*

# 2022 SURG Annual Report Recommendations as Aligned with Response Subcommittee AB374 Section 10 Assignments (part six)

- **(n) Study the sources and manufacturers of substances which are associated with substance use disorders, including, without limitation, heroin, other synthetic and non-synthetic opioids and stimulants, and methods and resources for preventing the manufacture, trafficking and sale of such substances.**
  - *No recommendations were put forth to directly address this element*



# 2022 SURG Annual Report Recommendations as Aligned with Response Subcommittee AB374 Section 10 Assignments (part seven)

- **(o) Study the effectiveness of criminal and civil penalties at preventing the misuse of substances and substance use disorders and the manufacture, trafficking and sale of substances which are associated with substance use disorders, including, without limitation, heroin, other synthetic and non-synthetic opioids and stimulants.**
  - *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). (Response #2)*

# 2022 SURG Annual Report Recommendations as Aligned with Response Subcommittee AB374 Section 10 Assignments (part eight)

- **(q) Study, evaluate and make recommendations to the Department of Health and Human Services concerning the use of the money described in section 10.5 of this act to address substance use disorders**
  - *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 institutional and community settings (e.g., hospitals, carceral facilities, and other institutional settings) who is being discharged post overdose or suspected overdose. (Response #3)*
  - *Fund personnel and resources for independent medical examiner(s) for investigations and reports to specify the cause of death in overdose cases. (Response #4)*

# 2022 SURG Annual Report Recommendations as Aligned with Response Subcommittee AB374 Section 10 Assignments (part nine)

- **(p) Evaluate the effects of substance use disorders on the economy of this State.**
  - *No recommendations were put forth to directly address this element.*

# **6. 2023 LEGISLATIVE SESSION UPDATE**

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Vice Chair Holmes

# Legislative Update (part one)

Senate Bills that overlap with 2022 SURG Annual Report recommendations from Response subcommittee:

- **SB4** – Revises provisions governing certain programs to pay for prescription drugs, pharmaceutical services and other benefits.
  - SURG Recommendation #5 to expand outreach for overdose and deploy personnel to people released from institutional or other settings after overdose.
  - SURG Recommendation #13 to ensure Black, Latinx/Hispanic, Indigenous, and people of color communities receive overdose services and supplies.
- **SB35** – Establishes the crimes of low-level trafficking in fentanyl, mid-level trafficking in fentanyl and high-level trafficking in fentanyl.
  - SURG Recommendation #1 to revise Fentanyl penalties
- **SB197** – Prohibits unauthorized sale or possession of fentanyl or carfentanil and increases penalties for violation.
- **SB412** – Increases penalty for possession of Fentanyl and other substances.
  - SURG Recommendation #1 to revise Fentanyl penalties

# Legislative Update (part two)

Assembly Bills that overlap with 2022 SURG Annual Report recommendations from Response subcommittee:

- **AB132** – Creates the Committee to Review Overdose Fatalities.
  - SURG Recommendation #10 Overdose Fatality Review Committees to identify system gaps and innovative strategies.
- **AB156** – Ensure availability of medication-assisted Treatment in jails, detention centers, and correctional facilities, for people diagnosed with opioid use disorder, and continuation of treatment on release or transfer.
  - SURG Recommendation #5 to expand outreach for overdose and deploy personnel to people released from institutional or other settings after overdose.
  - SURG Recommendation #11 to expand access to MAT and recovery support for SUD, including bridge MAT programs.
  - SURG Recommendation #12 to implement follow-up, referrals, and linkage of care for justice involved individuals with opioid use disorder.

# Legislative Update (part three)

- Please see “Substance Use Bills 2023” spreadsheet for a full list of bills that identified as overlapping with 2022 SURG recommendations.
- Are there any other bills subcommittee members are tracking that should be added to this list?

# **7. OVERVIEW OF RECOMMENDATIONS RECEIVED AND NEXT STEPS**

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Vice Chair Holmes



# Recommendations Received and Next Steps

- **Recommendation #1:** Resolve the conflict between the Good Samaritan Law and the Drug Induced Homicide Law.
- **Submitted by:** Dr. Terry Kerns
- **Justification (from prior submission):** The Good Sam Act (SB 459) states that a person acting in good faith would not be arrested for drug related charges if they call 911, provide support to the person who overdosed and stay with them. However, according to the drug induced homicide law, which makes it a class A felony “If the death of a person is proximately caused by a controlled substance which was sold, given, traded or otherwise made available to him or her by another person in violation of this chapter, the person who sold, gave or traded or otherwise made the substance available to him or her is guilty of murder.” Therefore, people are afraid to call 911 for those who have overdosed, out of fear of prosecution under NRS 453.333.
- **Research link(s):** See May 9, 2023, and August 23, 2022, Presentations
- **Possible presenters:** Christine Payson, Lisa Lee, Dr. Karla Wagner (presented previously)

# Recommendations Received and Next Steps Continued

- **Recommendation #2:** Revise NRS 453c.150 to include language similar to the State of Delaware: "Defendant made a good faith effort to promptly seek, provide, or obtain emergency medical or law enforcement assistance to another person who was experiencing a medical emergency after using a Schedule I or II controlled substance, and whose death would otherwise form the basis for criminal liability." or Rhode Island: "An eligible person will not be charged or prosecuted for the offense of controlled substance delivery resulting in death if a person, in good faith, without malice and in the absence of evidence of an intent to defraud, sought medical assistance for someone experiencing a controlled substance overdose and the evidence for the charge was gained because of the seeking of medical assistance. The protection only applies to the death of an adult and does not apply to the offense of controlled substance transaction resulting in death of a minor."
- **Submitted by:** Shayla Holmes
- **Justification:** These states and Vermont are the states that currently do not prosecute for Drug induced homicide or drug delivery resulting in death in relation to the good Samaritan laws.
- **Research Link:** <http://legislativeanalysis.org/wp-content/uploads/2021/12/GOODSA1.pdf>
- **Possible presenters:** Lisa Lee (presented previously)

# Recommendations Received and Next Steps Cont.

- Other Ideas to Discuss/Workshop?
- Presenter Suggestions?

# **8. PUBLIC COMMENT**

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# Public Comment

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# **9. ADJOURNMENT**

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# ADDITIONAL INFORMATION, RESOURCES & UPDATES AVAILABLE 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)/)



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