



NEVADA LEGISLATURE
LEGISLATIVE COMMITTEE ON HEALTH CARE
(Nevada Revised Statutes [NRS] 439B.200)

SUMMARY MINUTES AND ACTION REPORT

The third meeting of the Nevada Legislature's Legislative Committee on Health Care was held on Tuesday, March 13, 2012, at 9 a.m. in Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. The meeting was videoconferenced to Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. A copy of this set of "Summary Minutes and Action Report," including the "Meeting Notice and Agenda" ([Exhibit A](#)) and other substantive exhibits, is available on the Nevada Legislature's website at <http://www.leg.state.nv.us/interim/76th2011/committee/>. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (e-mail: publications@lcb.state.nv.us; telephone: 775/684-6835).

COMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Assemblywoman April Mastroluca, Chair
Senator Valerie Wiener, Vice Chair
Senator Joseph P. Hardy, M.D.
Assemblywoman Maggie Carlton
Assemblyman Crescent Hardy

COMMITTEE MEMBER ABSENT:

Senator Shirley A. Breeden (Excused)

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Marsheilah D. Lyons, Principal Research Analyst, Research Division
Risa B. Lang, Chief Deputy Legislative Counsel, Legal Division
Anne Vorderbruggen, Senior Research Secretary, Research Division

OPENING REMARKS

- Assemblywoman April Mastroluca, Chair, welcomed members, presenters, and the public to the third meeting of the Legislative Committee on Health Care.

PUBLIC COMMENT

- Chair Mastroluca called for public comment; however, no testimony was presented.

APPROVAL OF MINUTES OF THE MEETING HELD ON TUESDAY, FEBRUARY 14, 2012, IN LAS VEGAS, NEVADA

- The Committee **APPROVED THE FOLLOWING ACTION:**

ASSEMBLYMAN HARDY MADE A MOTION TO APPROVE THE MINUTES OF THE FEBRUARY 14, 2012, MEETING HELD IN LAS VEGAS, NEVADA. THE MOTION WAS SECONDED BY SENATOR WIENER AND PASSED. SENATOR HARDY WAS ABSENT FOR THE VOTE.

PRESENTATION CONCERNING THE CANCER DRUG DONATION PROGRAM IN NEVADA (NRS 457.450)

- Tom McCoy, State Director, American Cancer Society Cancer Action Network, stated that he is a past Chair of the Nevada Cancer Coalition, a Board member of the Nevada Colon Cancer Partnership, serves on the newly formed Consumer Assistance Advisory Committee of the Silver State Health Insurance Exchange, and represents Nevada on the Elite President's Council of the National Patient Advocate Foundation.

Mr. McCoy said that, before commenting on the cancer drug donation program in Nevada, he would like to mention the following prescription drug related matters the Committee may want to consider at a future time:

1. Drug shortages in the United States, and particularly drug shortages that have impacted cancer patients; and
2. The need for legislation to address the imbalance in the way health insurance treats oral cancer fighting drugs versus injected infusion medications, as many of the cancer drugs currently being developed are oral and are treated as prescription drugs, and the difference in coverage and thus the cost incurred by the patient is significant.

Mr. McCoy described the efforts to pass legislation in Nevada, beginning in 2007, to establish a cancer drug donation program to respond to the waste of vital and costly cancer medications that might be used by uninsured or underinsured cancer patients. He noted that Assembly Bill 213 (Chapter 122 *Statutes of Nevada 2009*) became effective on July 1, 2009. Nevada's Cancer Drug Donation Program has been in place since the fall of 2010, although there is a lack of public awareness of the program's availability and

participation by pharmacies. Mr. McCoy noted that the lack of funds has limited the opportunities to get the message to the public. (Please see [Exhibit B.](#))

- Responding to Senator Wiener's question regarding whether the medical profession has been educated about the Program and approached to promote the Program, Mr. McCoy stated he agrees that is needed, and he intends to accomplish more of that on a voluntary basis.
- Chair Mastroluca acknowledged that Mr. McCoy has provided the Committee with copies of the *State of Nevada Comprehensive Cancer Plan, 2011-2015*. (Please see [Exhibit C.](#))
- Mr. McCoy stated that the *State of Nevada Comprehensive Cancer Plan* contains very accurate and timely information and that the Plan will be the guiding document for the efforts of the Nevada Cancer Coalition for the next five years.
- Chair Mastroluca asked how many pharmacies throughout Nevada are currently participating in the Cancer Drug Donation Program.
- Carolyn J. Cramer, General Counsel, State Board of Pharmacy, responded that there are three participating pharmacies in southern Nevada: Diabetes Obesity Lifestyle Consultant Pharmacy; Precision Specialty Pharmacy, Inc.; and Spring Valley Pharmacy. However, she noted there are no patients and only one request has been received from a family for the patient application but a completed application was never returned. Ms. Cramer stated the forms are on the website of the State Board of Pharmacy, as well as an information sheet and "Frequently Asked Questions." She stated there are no participating pharmacies in northern Nevada and noted that the Board encourages pharmacies to participate through its continuing education program.

Responding to a question by Senator Hardy regarding receiving donation of medications from another state, Ms. Cramer said the program is for Nevada residents and only includes medication that was dispensed by a Nevada pharmacy. She indicated that, due to these and other statutory and regulatory parameters, drugs dispensed in another state could not be used in Nevada's program. She noted each state has the authority to develop its own program and its own terms and conditions on the use of the donated drugs.

Discussion ensued between Assemblywoman Carlton and Ms. Cramer regarding drug donation programs in other states. Assemblywoman Carlton suggested that it would be advantageous to determine which state has the best program and copy from it.

- Assemblyman Hardy suggested that there could be a joint awareness program with the Southern Nevada Water Authority and the Las Vegas Valley Water District who have major concerns with drugs being dumped down the drain, and have funding for awareness programs.
- Beth O'Connor stated she is a patient advocate for Renown Medical Center and one of her major responsibilities is to find free chemotherapy medications for patients with no

insurance. She noted that since her arrival at Renown Medical Center in 2010 she has been able to obtain \$2 million worth of free cancer medications. Ms. O'Connor stated that problems are being encountered with the oral chemotherapies, as the programs that would allow patients to obtain free medications take three months or longer to get the medication from the manufacturer to the patient. She noted this is also an ongoing issue with therapeutic medication to treat the side effects of oral chemotherapy, and she implored the Committee to expand the oral chemotherapy medications to include therapeutic medications.

Ms. O'Connor stated the Cancer Drug Donation Program is a good program that should be continued. She noted that many chain-owned pharmacies do not have an interest in joining the program; however, she has contacted independent pharmacies in Reno about joining the program. She stated it is painful and frustrating to watch patients wait months for their medication.

Discussion ensued regarding physicians receiving and distributing the recycled medications and how the regulations could be made more user friendly for the medical community.

- Ms. Cramer explained that the Cancer Drug Donation Program provides that pharmacies do the dispensing, not the practitioners, but the regulations could be changed to include dispensing practitioners. However, under the present program, pharmacists decide whether the drugs are acceptable and redispense them. When physicians sign a patient up for the program, they write a prescription and direct the patient to the pharmacy where the drug is dispensed to the patient.

In response to Senator Hardy's question about what can be done to facilitate the use of the Cancer Drug Donation Program, Ms. Cramer said that the pharmacies do not make money on recycling programs, and that is why the Legislature allowed it to be a voluntary program. She stated that the three pharmacies that participate are very community minded and take that role very seriously. However, if the Committee wants to expand the program to dispensing practitioners in the hopes of having a more successful program, that might be one area the Committee could look at.

- Chair Mastroluca noted that the states that have successful programs have state-run pharmacies in which the state takes on the liability, instead of going through retail pharmacies. She agreed that it is an education issue and it is the responsibility of the State to work with the State Board of Pharmacy, other groups, and doctors to develop a better way to educate the public about the program.
- Chair Mastroluca called for public comment on the presentation concerning the Cancer Drug Donation Program in Nevada (Agenda Item IV); however, no testimony was presented.

PRESENTATION REGARDING PRESCRIPTION DRUG ABUSE AND THE PRESCRIPTION DRUG MONITORING PROGRAM IN NEVADA

- Larry L. Pinson, Pharm.D., Executive Secretary, State Board of Pharmacy, gave an overview of the following subjects related to prescription drug abuse: (1) national numbers; (2) historical information related to the development of our drug culture; (3) Nevada numbers; (4) business of drug sales; (5) the advent of pain clinics; (6) typical habit; (7) approaching the problem; (8) profile of abusers; (9) influences on teen drug consumption; (10) periodic table of intoxicants; (11) where the drugs come from and remedies; (12) online advertisement for the sale of prescription and illicit drugs; and (13) a summary of recommendations. (Please see [Exhibit D.](#))
- Senator Wiener asked how many wholesalers in southern Nevada are over-ordering drugs.
- Mr. Pinson responded he could not provide a number because those are United States Drug Enforcement Agency investigations that he is not privy to, but he is aware of three.

Discussion ensued between Senator Wiener and Senator Hardy about whether prescription drug abuse could be a required part of a physician's continuing medical education.

- Lisa Adams, Program Manager, Nevada Prescription Controlled Substance Abuse Prevention Task Force, stated that the Prescription Drug Monitoring Program (PDMP) began in 1997. The dispensers in Nevada are required to transmit all controlled substance prescriptions to the Program weekly, and any practitioner or pharmacy can set up an account and request a report on a patient at any time. She noted that their software program was changed a year ago and there have been some problems with the new system. However, any user of the system is welcome to contact her office and her office will run the reports and e-mail or fax the reports to the user.

Continuing, Ms. Adams reported that 1,890 prescribers and 294 dispensers are currently signed up to use the Program. Since the beginning of 2012, prescribers have requested 79,677 reports and dispensers have requested 4,096 reports. She further stated that an intervention program is part of the PDMP, and there is an intervention officer in northern Nevada who identifies people who are doctor shopping and meets with those people regularly.

Responding to Chair Mastroluca's question about whether the program is voluntary or mandatory for physicians and dispensers, Ms. Adams stated that the program is voluntary; however, under certain conditions a prescriber is required to request a report if they suspect a person is requesting prescriptions for other than medical use.

In further response to Chair Mastroluca, Ms. Adams stated there is one intervention officer in northern Nevada who currently has four active cases that she is contacting at least weekly and working with their physicians, 24 active cases that require less intense interaction, and she is actively recruiting additional patients. Ms. Adams also responded that there is no intervention officer in southern Nevada.

Discussion ensued between Senator Hardy and Ms. Adams regarding how a prescriber can access the Program if they are not enrolled. Ms. Adams stated that prescribers can fill out a form online to set up an account or her office would be happy to set them up, if requested. The phone number for the Program is 775/687-5694, and her e-mail address is ladams@pharmacy.nv.gov.

- Mr. Pinson clarified it is mandatory that anyone who dispenses drugs in Nevada has to report information to the Program; the voluntary part is whether prescribers access the information tracked by the Program.
- Ms. Cramer noted that NRS 639.23507 is the law referred to by Ms. Adams regarding the report that is required before writing a prescription for a controlled substance if it is suspected that the patient may be seeking the controlled substance for other than medical use.
- Chair Mastroluca asked what kind of follow-up is done to verify that all dispensaries are participating in the Program.
- Ms. Cramer responded that the Board conducts an initial inspection and annual inspections on all pharmacies and dispensing practitioners who are dispensing controlled substances. She noted dispensers are also required to report and there are harsh consequences for people who are not truthful in their reports.

Discussion ensued between Senator Hardy and Ms. Cramer regarding the use of the PDMP by prescribers. Ms. Cramer noted there are far more controlled substance registrants than people who access the Program. She stated that the State Board of Pharmacy provides continuing medical education to practitioner groups to encourage them to access the Program.

In response to Senator Wiener's inquiry regarding whether doctors who dispense samples are required to register as dispensing physicians, Ms. Cramer stated that samples are not covered because there can be no charge for them. She noted there are not many controlled substances that are sample medication and she is not aware of any abuse of sample medications.

- Deborah McBride, Agency Director, Substance Abuse Prevention and Treatment Agency (SAPTA), Division of Mental Health and Developmental Services, Department of Health and Human Services, discussed the following items addressed in her PowerPoint presentation handout: (Please see [Exhibit E](#).)
 1. SAPTA's mission;
 2. Non medical use of pain relievers;
 3. Drug abuse warning network (nationwide emergency department visits for prescription drug use);
 4. Nevada's ranking;

5. Nevada compared to other western states;
6. Ages of prescription drug abusers in Nevada and the western states;
7. Drugs of choice of those treated at SAPTA funded programs;
8. Prescription drug overdoses in Washoe County;
9. Prescription drug overdose deaths in Clark County in 2010;
10. Prescription drugs used in overdose deaths in Clark County in 2010; and
11. Prescription drug treatment by Zip Code in 2010.

Discussion ensued between Assemblywoman Carlton and Ms. McBride regarding the age of the people being treated and the drugs of choice. Ms. McBride noted that the numbers in the charts in her handouts are only for admissions into SAPTA programs and would not include private organizations.

In response to Assemblywoman Carlton's question about how many children are being treated in the programs, Ms. McBride stated she did not have the information with her but would be happy to provide it.

- Ailee Burnett, Detective, Las Vegas Metropolitan Police Department (LVMPD), discussed the problem of prescription drug abuse in Nevada. She stated that law enforcement is seeing a greater trend of heroin overdoses and heroin usage, and that is because people are taking the opiates, which is a synthetic form of heroin. She noted that heroin is less expensive than opiates and easier to obtain, so people turn to heroin as a supplement when they cannot obtain the opiates and they do not realize they are taking too much and they are overdosing. Detective Burnett stated there should be an electronic system for prescription medications, especially for controlled substances, because it is easy to obtain these prescriptions through prescription fraud.

Continuing, Detective Burnett stated that prosecution is also a problem, and the current criminal charge and penalty for selling controlled substance prescription drugs is not high enough. She noted it takes a lot of time and money to conduct investigations and people are not getting appropriate sentences. Detective Burnett stated that there are more deaths from the use of prescription drugs than all other drugs combined.

There was general discussion regarding the U.S. Drug Enforcement Agency's rule that would provide practitioners with the option of writing prescriptions for controlled substances electronically. Ms. Cramer stated it will be a closed system that will be 100 percent secure, and Nevada is currently effectuating the last of the regulatory changes for Nevada's program. In response to Chair Mastroluca, Mr. Pinson stated that participation in the program would be voluntary and a physician always has the ability to handwrite a prescription.

- Chair Mastroluca asked Detective Burnett what changes she would recommend to assist in the prosecution of those selling the controlled substances.
- Detective Burnett suggested lowering the amount of the substance needed in order to charge someone with trafficking, so there are harsher punishments for selling the

controlled substances. She further suggested that there be a trafficking charge for Schedule III, IV, and V controlled substances, and discussed the problem of prescription fraud and the over-prescription of controlled substances.

Discussion ensued between Assemblyman Hardy and Senator Hardy regarding adequately treating patients for pain management.

Responding to a question from Assemblyman Hardy about whether she has approached any legislators regarding her suggestions for change, Detective Burnett asked for direction on how to proceed.

- Chair Mastroluca suggested that Detective Burnett get together with her colleagues from around the State and come up with what is reasonable and will work for them, and then bring it back to either this Committee or to individual legislators who have an interest in the issue.
- Assemblywoman Carlton commented that the ultimate problem is the abuse of prescription drugs, and the person signing the prescription holds the ultimate responsibility.
- Detective Burnett agreed and noted that it is a lengthy process to develop a proper case on practitioners who are abusing their powers. She commented that other problems are that people are able to alter the prescriptions, make fraudulent prescriptions, and request prescriptions by telephone. She noted that is why they were hoping there could be an electronic system.
- David M. Marlon, President, Solutions Recovery, Inc., stated that he also serves on a drug prevention foundation and a Clark County drug prevention coalition, and is a member of the Attorney General's Substance Abuse Working Group. He referred to the Microsoft PowerPoint handout he provided regarding prescription medication. (Please see [Exhibit F.](#)) Mr. Marlon noted that 75 percent of the phone calls received at Solutions Recovery, Inc. are regarding opiates. He stated that his company goes into schools to train 6th through 12th grade students regarding opiates and has distributed in Clark County over 40,000 free copies of a booklet regarding opiates. (Please see [Exhibit F-1.](#)) Mr. Marlon reviewed the information provided to the Committee regarding statistics on the abuse of prescription drugs, method of obtaining prescription pain relievers, physicians charged with over-prescribing, treatment, and enforcement.

In conclusion, Mr. Marlon referred to an article he provided regarding a New York prescription drug monitoring program. (Please see [Exhibit F-2.](#))

In response to a question by Chair Mastroluca about his recommendations for educating adults, Mr. Marlon stated there is a wide array of opportunities to educate the public, and he makes presentations to some of the parent groups in schools. He noted that continuing education units for doctors or prescribers would be helpful. Mr. Marlon commented that he hoped the primary improvement over the next period of time would be to make the prescription drug monitoring system more robust.

- Senator Hardy suggested that instead of requiring additional continuing medical education, physicians be given the option to choose education on the abuse of prescription drugs in lieu of something else that may not be as appropriate at the present time.
- Senator Wiener suggested that there be a presentation regarding continuing medical education on the abuse of prescription drugs at a future meeting of the Committee.

There was general discussion regarding the success of compulsory versus voluntary treatment for addiction.

- Mac Venzon, Lieutenant, Reno Police Department, reported that the Reno Police Department, in a combined task force with the Sparks Police Department and the University of Nevada, Reno Police Services, has received a grant from the United States Department of Justice, Office of Justice Programs, Bureau of Justice Assistance Smart Policing Initiative to study what works and what does not work in relation to the prescription drug abuse problem. He noted it is a lengthy three-year study and stated a copy of the final report would be provided to the Committee.

Continuing, Lieutenant Venzon stated it would be helpful to require doctor and dentist education related to drug seeking behaviors, and described what is being done in northern Nevada. He also suggested that there be incentives for prescribers to use the PDMP, and noted that northern Nevada has a campaign to encourage people to lock up or destroy their unused drugs.

- Linda Lang, Director, Nevada Statewide Coalition Partnership, provided information on the membership of the Nevada Statewide Coalition Partnership, its prescription drug abuse prevention initiatives, and next steps and recommendations consisting of: (1) training for prescribers; (2) the development of protocols for dispensing narcotic pain medications; (3) educating physicians about the PDMP; (4) consumer education; (5) pharmaceutical company approaches; (6) destruction of medications; (7) heightened law enforcement and control; (8) monthly drug pick-ups; and (9) the support of the efforts of the Governor's Substance Abuse Task Force related to prescription drugs. (Please see [Exhibit G.](#))

In conclusion, Ms. Lang invited the Committee members to attend a drug summit the Nevada Statewide Coalition Partnership has planned for October 1 and 2, 2012, in Reno.

- Stacy Shamblin, Drug Abuse Prevention Coordinator, Reno Police Department, stated that she is responsible for the day-to-day operations of the federal grant program mentioned by Lieutenant Venzon. She commented the problem breaks down into the areas of: (1) drug seeking behaviors, and (2) the need for careful, responsible prescribing on the part of the physicians. She also discussed the problems of fraudulent prescriptions, call-in prescriptions, and the need to secure prescriptions, and noted that these problems can be addressed by utilizing the PDMP.

- Chair Mastroluca called for public comment on the presentation regarding prescription drug abuse and the prescription drug monitoring program in Nevada (Agenda Item V).
- Bobbette Bond, Director of Public Policy, Culinary Workers Health Fund, reported that the Culinary Workers Health Fund has a database whereby they can track the prescribers and who is receiving the prescriptions. She noted that their experience is that a very small number of doctors have dangerous prescribing patterns, and offered to share their data with the Committee. She stated that the Culinary Workers Health Fund was able to eliminate the offending doctors from their network, but the patients continued to go to the high-prescribing doctors and pay out of pocket.

Discussion ensued regarding whether information about a prescriber who may be overprescribing could be shared with someone who could do the appropriate investigation and make a determination. Ms. Bond stated that she would consult with their attorneys about whether the Culinary Workers Health Fund's information could be released.

UPDATE REGARDING SYNTHETIC DRUGS REGULATION, EDUCATION, PREVENTION, TREATMENT, AND ENFORCEMENT

- Larry L. Pinson, previously identified, and Carolyn J. Cramer, previously identified, provided an update on the status of the regulation of synthetic cannabinoids and bath salts.

Responding to a question by Chair Mastroluca, Ms. Cramer described the process for emergency regulations and noted that it affords the agency the opportunity to protect the public while going through the regulatory process.

In response to Chair Mastroluca's inquiry about the plans for educating the public about the drugs that have been added to Schedule I in the new regulations, Ms. Cramer stated the information is on the website of the Board of Pharmacy, has been widely reported in the news media, and the Board has provided information in response to requests they have received. She noted the Board of Pharmacy works closely with law enforcement, providers that request information, regulatory agencies, and the media.

Discussion ensued regarding the preparation of letters that cities and counties could distribute to the holders of business licenses, informing them of the new regulations.

- Ailee Burnett, previously identified, discussed her concern with businesses that take the products off the shelves but reconfigure the compounds and make new products and restock the shelves with the new product. She reported that she has obtained a copy of legislation from Illinois that has added language to its "Food, Drug, and Cosmetic Act," which addresses proper labeling. Lieutenant Burnett stated the LVMPD is looking into addressing the issue in NRS Chapter 585, - "Food, Drugs and Cosmetics: Adulteration; Labels; Brands."

- Chair Mastroluca called for public comment on the update regarding synthetic drugs regulation, education, prevention, treatment, and enforcement (Agenda Item VI); however, no testimony was presented.

PUBLIC COMMENT

- Chair Mastroluca called for public comment; however, no testimony was presented.

ADJOURNMENT

There being no further business to come before the Committee, the meeting was adjourned at 12:58 p.m.

Respectfully submitted,

Anne Vorderbruggen
Senior Research Secretary

Marsheilah D. Lyons
Principal Research Analyst

APPROVED BY:

Assemblywoman April Mastroluca, Chair

Date: _____

LIST OF EXHIBITS

[Exhibit A](#) is the “Meeting Notice and Agenda” provided by Marsheilah D. Lyons, Principal Research Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit B](#) is a summary of the comments made by Tom McCoy, State Director, American Cancer Society Cancer Action Network regarding the Cancer Drug Donation Program in Nevada.

[Exhibit C](#) is a booklet titled “State of Nevada Comprehensive Cancer Plan, 2011-2015,” provided by Tom McCoy, State Director, American Cancer Society Cancer Action Network, Reno.

[Exhibit D](#) is a Microsoft PowerPoint handout titled “Prescription Drug Abuse Overview,” submitted by Larry L. Pinson, Pharm.D., Executive Secretary, State Board of Pharmacy.

[Exhibit E](#) is a Microsoft PowerPoint handout titled “Prescription Drug Abuse, Substance Abuse Prevention and Treatment Agency, March, 2012,” provided by Deborah McBride, Agency Director, Substance Abuse Prevention and Treatment Agency, Division of Mental Health and Developmental Services, Department of Health and Human Services.

[Exhibit F](#) is a Microsoft PowerPoint handout titled “Is Prescription Medication a Problem,” provided by David M. Marlon, President, Solutions Recovery, Inc., Las Vegas.

[Exhibit F-1](#) is a brochure titled “It’s Tough Being a Teen...don’t make it tougher!” provided by David M. Marlon, President, Solutions Recovery, Inc., Las Vegas.

[Exhibit F-2](#) is an article titled “New York Prescription Drug Monitoring Program Sparks Debate,” by Join Together Staff, dated March 5, 2012, submitted by David M. Marlon, President, Solutions Recovery, Inc., Las Vegas.

[Exhibit G](#) is a document titled “Presentation to the Legislative Committee on Health Care, Tuesday, March 13, 2012,” provided by Linda Lang, Director, Nevada Statewide Coalition Partnership, Carson City.

This set of “Summary Minutes and Action Report” is supplied as an informational service. Exhibits in electronic format may not be complete. Copies of the complete exhibits, other materials distributed at the meeting, and the audio record are on file in the Research Library of the Legislative Counsel Bureau, Carson City, Nevada. You may contact the Library online at www.leg.state.nv.us/lcb/research/library/feedbackmail.cfm or telephone: 775/684-6827.