

Controlled Substance Advisory Committee

Date: Monday, May 18, 2015, 1:00-4:00 PM

Location: Attorney General's Office, 1031 W 4th Ave, Room 501, Anchorage, AK 99501

Chairperson: Robert Henderson (LAW)

Member In Attendance: Leonard (Skip) Coile
Dennis Casanovas (DPS)
Eric Jewkes (FPD)
Sandra Aspen
Valerie Davidson (DHSS)
Lawrence Stinson
Dirk White (telephonic)
Jay Butler (telephonic) (DHSS)

Public in Attendance: Suzanne Diepetro (Alaska Judicial Council)
Mary Geddes (AJC)
Susie Dosick (AJC)

Presenters: John Woodman (LAW)
Chris Peloso (videoconference) (LAW)

Secretary: Shiloh Werner

Handouts

- ❖ Susie Dosick Drug Chart
- ❖ Chart Comparing CSAC and ACIC
- ❖ Controlled Substances Measures in Alaska Since 1983, LRS 2014
- ❖ Alaska Statute 11.71.100-210
- ❖ Partial Comparison of Alaska's Drug Schedules to Federal Schedules

Agenda

- ❖ Introductions
- ❖ Committee Ethics – John Woodman, Assistant Attorney General, Department of Law
- ❖ Open Meeting Act Requirements – Chris Peloso, Assistant Attorney General, Department of Law
- ❖ The Alaska Criminal Justice Commission – Susanne DiPietro, Executive Director, Alaska Judicial Council
- ❖ Controlled Substance Advisory Committee – Purpose and duties (AS 11.71.100-.110)
- ❖ Controlled Substance Schedules – General discussion (AS 11.71.140-.195)
- ❖ Next Steps/Next Meeting

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INTRODUCTION

Introduction to the Committee

Mary Geddes opened the meeting with an introduction to the purpose of the Alaska Criminal Justice Commission, of which she is a part, and how its work affected the Controlled Substance Advisory Committee (the “Committee”). The Committee, established by the Legislature, has not been convened till now. This Committee is obligated to consider strategies for dealing with offenders *and* to examine the adequacy of current drug rehabilitation efforts. The Alaska Criminal Justice Commission is looking for active communication between the Advisory Committee and the Commission itself. As to the primary topic of drug schedules, Geddes reports that State statutes generally do reflect the Federal drug schedules, but differences do exist. This Committee is responsible for reviewing our current structure and determining whether changes are needed, using other state methods as a guide for other options that may be available. Around the country, 722 state bills have been filed thus far in 2015. Controlled substances are currently an active subject, (primarily concerning marijuana).

Committee Ethics – Presentation by John Woodman

Mr. Woodman, with the aid of a powerpoint presentation, briefed the members of the Committee on their ethical responsibilities. Official actions, as well as inaction, must follow ethical guidelines in regards to both immediate family members and the organization that Committee members belong to. Mr. Woodman summed his presentation of ethics with reminding members to ‘disclose before taking action’.

Open Meeting Act Requirements – Presentation by Chris Peloso

Mr. Peloso explained the responsibilities of the Committee in regards to the Open Meeting Act, of which they are subject to. Meetings held by the Committee are open to the public, and must allow for attendance. Attendance, however, does not mean participation. There must be a reasonable public notice before a meeting is held that contains the time, date, place and teleconference information. Any action taken during an open meeting that does not follow the rules of the Act is subject to legal action and can be voided by the public. When dealing with confidential matters, the Committee must hold an executive session. In response to a question by Mary Geddes concerning email correspondence, Mr. Peloso explained that the Open Meeting Act does not pertain to communications outside of the meeting setting. Committee members are under no obligation to disclose their email correspondence to the public. In answer to further questions regarding public notice by Geddes, Henderson and DiePetro, Mr. Peloso explained that several methods of public notice are acceptable (e.g., Commission website, DOL website, newspaper). The requirement is that the public must be given “reasonable” notice.

DISCUSSION

Establishing Goals for the Committee

After a short break, Robert Henderson opened the Committee to a discussion regarding their purpose and goals. He directed the members to Alaska Statute 11.71.110 which contains a broad list of what the Committee is charged with addressing. Due to the broad description, there is a need to focus the task of the Committee in regards to controlled substances. Henderson offered his opinion that the rescheduling of controlled substances be the focus, but would like to hear additional ideas.

Skip Coile responded that the scheduling for the State of Alaska should conform, at minimum, to the Federal schedule - especially due to the recent legislation regarding marijuana Mr. Coile further

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noted that there are six areas addressed within the Statute to which the Committee should be tasked with responding to.

In response to Mr. Coile's comments regarding marijuana, Henderson responded that the Committee should not focus on marijuana. There are several other groups addressing marijuana and we need to be careful that the work of the Committee is not a duplication of efforts already underway by others. We have a monstrous task and though we are advisory, the Governor must introduce legislation that follows suit with our recommendations. Henderson further noted that we need to rely on different areas of expertise and pull resources and ideas from varying backgrounds. We should tackle the schedules, but how?

How do we Tackle the Re-Scheduling Process?

Coile inquired as to what difficulties are associated with the task of rescheduling drugs. Would doing so mean we need to 're-invent the wheel'? Geddes responded that the continual changes at the federal level can make it difficult to address our own schedules. However, Geddes informed the members that there are national organizations that are available to us as a resource for tackling the task of rescheduling controlled substances in our own state. Also as a reminder, there are reasons why the federal schedules will vary somewhat with those at a state level due to differing criteria.

What Information Do We Need?

Before the Committee begins tackling the schedules for the State of Alaska, Henderson wonders if we should first get information regarding the current federal schedules. In response, an inquiry is made by Geddes to Mr. White as to what the Board of Pharmacy's thoughts may be on the matter, and what actions they may have taken regarding controlled substances. Mr. White responded that nothing has been done by the board and is unsure whether the authority has even been given to enact regulations. Henderson responds that the regulating authority has been given to the committee. Coile offers that the goal of regulation may be more important than the rescheduling of drugs since it is the committee that has been given the power to do so. This idea is seconded by Stinson who can see a lot of value in regulation and notes that our state leads in accidental drug deaths. White led back to the need to review the federal schedules before working on rescheduling our own.

Discussion Regarding Scheduling by way of Statute and/or Regulation

Valerie Davidson asked if there was a way to reschedule a drug *not* by statute. Is it possible to fix the underlying statutes that are causing the problem? In respect to Davidson's question, Geddes comments that there is a statute that states that the scheduling of controlled substances must be scheduled by statutes. Henderson wonders what steps can be taken to allow the schedules to be updated without having to take legislative action, and instead be able to update them on a regular basis. What about emergency regulations when new drugs come on the market? Who would be the appropriate agency to handle such regulations? Dennis Casanovas comments that the Department of Health and Social Services seems to be the most appropriate agency to handle such regulations. In response to Casanovas, Jay Butler pointed out that the Healthcare Commission has recently been defunded, and he would like to see coordination between the Department of Health and Social Services and the Board of Pharmacists.

Geddes reminded the Committee – before they go too far – that the scheduling of drugs has many collateral consequences. Henderson agrees and offers the question – how do we address some of those collateral consequences? If the Committee were to suggest that DHSS becomes a regulatory

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agency for controlled substances, how will that impact public safety and penalties? Reclassifying a drug has direct consequences on criminal penalties.

With respect to Geddes' reminder of collateral consequences, Coile would like to focus on the immediate effects on the streets as opposed to the rescheduling of drugs. Larry Stinson responded that changes at the statutory and regulatory level can have a direct impact on the streets. Stinson reports that there are examples from around the country where the rescheduling of a drug has had an effect of reducing excess medications on the streets.

Henderson provided clarification in regards to why the focus of this Committee should be on scheduling. The advisory committee does not want to duplicate the work already being undertaken by the Commission.

Returning the discussion to regulation, Stinson reports that we are number one in the country for accidental drug deaths and there are regulations that are needed to limit the accessibility of controlled substances. There are other state's that have taken steps to combat this problem and it has worked. Henderson asked if there was anyone on the committee who would disagree with addressing this issue? White has a few reservations, but it is agreed that the subject should be put on the agenda for the next meeting.

Henderson would like to review the information from the Department of Public Safety regarding drug trends. Casanovas responded that their report is available on the Department of Public Safety website. Casanovas commented that he would like to talk about the overall access to the prescription drug monitoring program. This Committee should look at who has access and believes it could help us address trends that we are seeing on the streets.

White responds with respect to the Prescription Drug Monitoring that everyone wants access to it, but no one wants to pay for the monitoring program. It was not the intent of the bill to be a resource for searching on people's prescription habits. Butler is in agreement that funding is a major issue and reviewing the data could be a good way to evaluate the success of the program.

Henderson notes that the Prescription Drug Monitoring program offers an opportunity and before the next meeting, he would like to determine who is in charge of the program and communicate with them on learning more about it.

ASSIGNMENTS

- ❖ Ms. Geddes is tasked with looking into national resources for state schedules around the country versus federal schedules.
- ❖ Mr. Stinson will contact the University of Washington to inquire after successful regulations as to the access of controlled substances in the State of Washington.
- ❖ Ms. Davidson will follow up with Stacy Kraly and Jay Butler in regards to the Department of Health and Social Services thoughts as a regulatory agency for controlled substances.

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- ❖ Mr. White will communicate with the Board of Pharmacy to gauge their feelings on the Committee's regulatory ideas.
- ❖ Mr. Henderson will determine who is in charge of the Prescription Drug Monitoring Program and inquire about the program and where opportunities for work by the Committee may exist.

Next Meeting: Tentatively scheduled for Wednesday, June 17, 2015 at 1:00 PM.