

Steve Sisolak
Governor
Richard Whitley, MS
Director



DEPARTMENT OF
HEALTH AND HUMAN SERVICES
Division of Public and Behavioral Health
Helping people. It's who we are and what we do.



Lisa Sherych
Administrator
Ihsan Azzam, Ph.D., M.D.
Chief Medical Officer

SB 284 – ADVISORY TASK FORCE ON HIV EXPOSURE MODERNIZATION

February 3, 2021

5 p.m.

WebEx Teleconference

Draft Minutes – 02.03.2021

TASK FORCE MEMBERS PRESENT:

André Wade, Chair
Senator Dallas Harris, Co-Chair (Left meeting at 5:36 pm)
Stephan Page
Vince Collins
Jen Howell
Cheryl Radeloff
Connie Schearer
Quentin Savvoir
Cynthia Watson Catha
Ruben Murillo (Left meeting at 5:53 pm)

TASK FOR MEMBERS ABSENT:

Senator David Parks
Steve Amend (Excused)
Antioco Carrillo
Catherine Elliot

DIVISION OF PUBLIC AND BEHAVIORAL HEALTH STAFF PRESENT:

Tory Johnson, Mmgmt, Section Manager, Office of HIV
Michael Thomas Blissett, Health Program Specialist I, Office of HIV
Octavio Posada, Health Program Specialist I (Contractor), Office of HIV

GUESTS PRESENT:

Linda Anderson
Marguerite Schauer
Alyssa Cortes
Luis Aceves
Davina Conner
Alisa Howard

The Board reserves the right to take items in a different order or to combine two or more agenda items for consideration to accomplish business in the most efficient manner. The Board may remove an item from the agenda or delay discussion relating to an item on the agenda at any time.

1. Call to Order, Roll Call – *Office of HIV Staff*

Chair Andre' Wade called the meeting to order at 5:05 p.m., asking Octavio Posada, Health Program Specialist I (Contractor), to take a roll call. Ten (10) of the fourteen (14) members were present; a quorum was met.

2. Public Comment - Chair, André Wade

(No action may be taken on a matter raised under this item of the agenda until the matter itself has been included specifically on an agenda as an item upon which action will be taken.)

Chair Wade asked if there was any public comment to be made, and for those making comments, to say their name and limit response to three minutes; there were no public comments.

3. Review and Approval of the January 13, 2020 draft minutes – Chair, André Wade

Chair Wade asked members if there were any corrections or revisions to the minutes as submitted. There were none. Chair Wade moved to approve the minutes as presented; Quentin Savwoir seconded the motion. Chair Wade called for a discussion and then for a vote, asking for all those in favor to say 'Aye,' and any opposed to say 'Nay.' None opposed; the motion carried to approve minutes as submitted.

4. Update on status of Senate Bill (SB) 284 (2019) bill and 2021 81st Legislative Session – Co-Chair: Senator Dallas Harris.

Co-Chair Harris shared that, unfortunately, there isn't any language available yet from the Legislative Council Bureau (LCB), but that Co-Chair Harris has been reassured that by the end of this week, or most likely the end of next week the information would be available. Co-Chair Harris informed the meeting participants that there are no more questions from the bill drafters.

Co-Chair Harris discussed the enhanced penalty to discuss what the legislators are willing to do versus what the Task Force would want to do. As intended to be drafted, statute 201.205 will be repealed, which will leave space for statute 441A when someone violates the rule and purposely transfers a communicable disease to someone else. Under this scenario, HIV would no longer be called out as it would be a provision that applies to all other communicable diseases. Co-Chair Harris mentioned that she would speak with a legislative drafter to see if the Task Force can take the presumption from statute 201.205 that the Task Force likes and have it no apply to the communicable diseases that don't pass through casual contact. Co-Chair Harris also mentioned that the idea was to scratch 201.205 altogether.

As a response to Co-Chair Harris' request for questions or comments, Connie Schearer asked if the Task Force would leave nothing [based on the repeal of statute 201.205] that would tell a prosecutor to look towards the public health code. Co-Chair Harris responded that once the

statute is gone, the only option would be the public health code, and that when repealed to make a reference to NRS 441A, but that legislatively that is not required. Connie Schearer stated that she would be concerned that a prosecutor would not put in the effort to look at the public health code and just go for a criminal code. In response, Co-Chair Harris said that there isn't much that can be done from stopping a prosecutor from doing that with any communicable disease, but that the best the Task Force could do is to put HIV in parity with everything else.

Jen Howell stated that her concern is that casual contact was not an epidemiological term for a mode of transmission and that she would like to stay with the terms used in epidemiology since we're staying with Public Health and science. Co-Chair Harris asked Jen Howell about different forms of transmission of communicable diseases and if there was a difference to which Jen Howell answered that there are direct and indirect modes of contacts, and vehicle-borne, contact-borne and that HIV would fall under two of those modes of transmission. And that casual contact does not have a definition in epidemiology. Co-Chair Harris shared that nothing is stopping the Task Force from defining what casual contact could be from a scientific standpoint, even if that would pose to be a daunting task. Jen Howell stated that given those other viruses such as COVID19 could be transmitted by casual contact, putting HIV in parity with other communicable diseases would be a concern. Jen Howell mentioned that she would share with the Task Force an email with more information regarding her concerns on this topic, which includes information where 441A includes language where the Health Department can determine transmissibility based on generally accepted guidelines. Co-Chair Harris said that she would defer to the Task Force to say how they felt about allowing the health department to provide promulgations on what casual contact could be, including definitions.

Cheryl Radloff said that the definitions of communicable diseases are always changing based on science and that the collective efforts of several health departments, including guidance from entities such as the CDC.

Vince Collins asked Jen Howell if by using that language, "casual," it would be usurping the authorities' ability to do their job, and if that was the case, what did she mean by that. Jen Howell stated that "casual contact" has a very loose definition and that when looking at modes of transmission, it's important to be very clear on what those modes of transmission are, as we [epidemiologists] do their work. Also, when it comes to surveillance, everything is well documented, which helps determine people's risks. Vince Collins stated that he did not feel that the language would not clarify exactly where the point of transmission happened and that he did not see how it would impede a clear diagnosis.

State staff Tory Johnson asked for Task Force members to state their names for the record.

Marguerite Schauer introduced herself and mentioned that a concern she has is the idea is to repeal the criminal law without anything else. Marguerite Schauer mentioned that her preference would be to place legislative intent where it used to be. Her second preference would be not to categorize bodily fluids as deadly weapons. In response, Co-Chair Harris said that she did not know if it would be true that someone could not weaponize their communicable

disease, which was Co-Chair Harris' hesitation with saying that it [bodily fluids] could not be a deadly weapon. Co-Chair Harris shared that she would consider everything discussed thus far and offered for her to be contacted by calling her office directly or through her Senator Facebook page. Co-Chair Harris then left the meeting.

Chair Wade expressed his appreciation of the conversation and willingness of the Task Force to have conversations about decriminalizing HIV without any hesitation; and that once written language was provided, the Task Force could further react to it. In response to Chair Wade regarding any questions regarding agenda item #4, Stephen Page asked if there were more content to the bill for the Task Force to discuss other than what Co-Chair Harris had discussed, such as recommendations on sex work statutes or statutes on confinement in the Nevada prisons [HIV/AIDS positive inmates]. Chair Wade responded that the bill had been submitted along with all of the Task Force recommendations and those of the Center for HIV Law & Policy. Furthermore, Chair Wade mentioned that should there be any other changes or questions regarding the submitted bill, Co-Chair Harris would have a discussion with the Task Force.

For the record, Chair Wade mentioned agenda item #4 agenda should have been listed as Bill Draft Request (BDR) 220 (2021) instead of Senate Bill (SB) 284 (2019).

5. Discussion of Senate Bill (SB) 284 (2019) bill if the language has been released – Chair: André Wade.

Chair Wade also mentioned that agenda item #5 should not have been listed as the discussion of Senate Bill (SB) 284; instead, it should have been listed as a discussion on BDR 220 (2021) if the bill language had been released. Chair Wade skipped agenda item #5 as the language had yet to be released.

Chair Wade shared that Task Force member Jen Howell would need to leave the meeting, for a roll call to be performed to do a count for quorum.

6. Discussion and possible action to make a recommendation to the Legislature regarding changes to NRS 40.770– Member: Jennifer Howell.

Chair Wade stated that this would be an item Jan Howell was not able to discuss as she had to leave the meeting. There were no questions or comments by Task Force members regarding this agenda item.

In response to Chair Wade's request, Octavio Posada performed an additional roll call, determining that there were eighth Task Force members present, enough to meet quorum.

Chair Wade made a motion to remove the word HIV/AIDS from NRS 40.770. Connie Schearer seconded the motion. Chair Wade called for a vote, all in favor say, 'Aye,' any opposed say 'Nay.' None opposed.

7. Discussion and possible action to revise or supplement the information in the Task Force's report

to the Legislature– Chair: André Wade

Chair Wade stated that the genesis of this items' discussion was for the Task Force to draft any supplemental reports to be added to the already submitted report. Ruben Murillo asked about any other items that required a vote as he had to leave the meeting in five minutes. Chair Wade opted to table agenda item 7 to the next Task Force meeting.

8. Testimonial by HIV Task Force at legislative hearings – Chair: André Wade

Chair Wade mentioned that there were a video and other written testimony that was not shared time before this Task Force meeting.

Chair Wade opted to table agenda item #8 for the next Task Force meeting.

9. Determine the frequency of Task Force meetings moving forward. – Chair: André Wade

Stephen Page suggested for the next meeting take place on February 17, 2021. Chair Wade made a motion to have the next meeting on Wednesday, March 17, 2021, at 5 pm. Ruben Murrillo seconded the motion. Chair Wade called for a vote, all in favor say, 'Aye,' any opposed say 'Nay.' None opposed.

10. Discussion and possible action regarding the attendance provisions within the Task Force Bylaws – Chair: André Wade

Chair Wade opted to table agenda item #10 for the next Task Force meeting.

11. Recommendations for future agenda items– Chair: André Wade

There were no agenda items suggested by the Task Force. Chair Wade will draft the agenda for the next meeting.

State staff member Tory Johnson advised the Task Force to forward any documents by no later than March 5th, 2021.

12. Public Comment – Chair Wade

(No action may be taken on a matter raised under this item of the agenda until the matter itself has been included specifically on an agenda as an item upon which action will be taken.)

Chair Wade then asked for any public comments mentioning that those making comments would have three minutes to do so.

Guest Marguerite Schauer from the Center for HIV Law & Policy expressed her concerns with moving language from the criminal code exposure provision 201.205 moving it directly as written to the public health code. Marguerite Schaeur further stated that she thought that the language already submitted by the Task Force would be preferable. Regarding the casual language discussion, Marguerite Schauer shared that anything that would allow an entity to make a determination on its

own is also of concern as such determination could go against the Task Force's effort to modernize HIV laws.

Guest Linda Anderson shared that it would be important to note that the health departments would be able to make determinations through regulations that involve public processes. In terms of criminal prosecutions, Linda Anderson mentioned that if people are to be held to scientific standards, but due to the nature of public health and the parity to communicable diseases, doing it to the board of health process and regulations may provide better protection to the public and anybody who may be charged with a crime inappropriately.

Guest Deidre Johnson asked the Task Force about any buy-ins from the Departments of Health. In response to the question, Chair Wade mentioned that the Task Force has been in conversation with public health authorities in the state of Nevada, including health districts. These conversations included ongoing discussions around communicable diseases and language on current statutes; and that the health departments have been largely receptive to the recommendations made by the Task Force regarding statutes regarding communicable diseases in general. There were no other public comments made.

13. Adjournment - Chair Wade

Chair Wade motioned for adjournment of the meeting. Connie Schearer seconded the motion. Chair Wade called for a vote, all in favor say, 'Aye,' any opposed say 'Nay.' None opposed, the meeting adjourned at 6:04 pm.