

# Controlled Substances Advisory Committee

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**Date:** Monday, July 16, 2018 from 1:00-4:00 PM

**Location:** Attorney General's Office, 1031 W 4<sup>th</sup> Ave  
5<sup>th</sup> Floor Conference Room, Anchorage, AK 99501

**Chairperson:** Robert Henderson (LAW)

**Member in Attendance:** Leonard (Skip) Coile (public member)  
Dr. Alexander Von Hafften (Psychiatrist Designee) – telephonic  
Dr. Larry Stinson (Physician Designee)  
Lana Bell (Board of Pharmacy Designee)  
Dr. Butler (Chief Medical Officer and Director, DHSS)  
Lieutenant Tim Putney (Kodiak Police Department) – telephonic  
Andy Greenstreet (Alaska State Troopers) - telephonic

**Public in Attendance:** Andy Jones (Department of Health and Social Services, Office of Substance Misuse and Addiction Prevention – “OSMAP”)  
Michael Branson (Municipality of Anchorage, Assistant Municipal Prosecutor)  
Sgt Jennifer Haywood (Anchorage Police Department, Community Action Policing Team)

**Secretary:** Shiloh Werner (LAW)

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## Agenda

- ❖ Approval of Minutes from November 28, 2017
- ❖ Review of HB312 and its impact on the CSAC
- ❖ General Discussion
  - Kratom
  - Public Request – electronic prescriptions
- ❖ Public Comment
- ❖ Next Steps / Next Meeting

## Approval of Minutes

The minutes from the meeting held on November 28, 2017 are unanimously approved by the committee.

## Review of HB312 and its impact on the CSAC

Henderson provides the committee with a description of House Bill 312, this year's crime bill. HB 312 created a new system in which the Attorney General (AG) can schedule emerging drugs by emergency regulation. The AG must solicit input from this committee in order to do so. The bill also changed the designation of the committee chair. Formerly, the chairperson came from the Department of Law but HB 312 has changed that to the Board of Pharmacy. It is suggested that Lana Bell, as the Board of Pharmacy's current committee designee, will assume the role as chair. HB 312 provides that emergency regulations stay on the books for three years, giving the legislature time to take action -

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whether that is to permanently schedule or vacate. In considering an emergency regulation the AG must assess a substance's pattern of abuse, whether it is being trafficked, what form it takes, etc. The AG is limited to scheduling new drugs only if they are already scheduled by the Federal government. The legislature is able to, but not the AG, as a way to provide a check and balance. Another limitation is the AG can only add new drugs, not change existing ones. HB 312 covers other areas, but these are the points that concern the committee. Any questions?

Coile, who determines the emergency? The AG determines that a substance justifies being put under emergency regulation in consultation with this committee. The AG must make written findings, and those findings made available for a public comment period before the regulation goes into effect.

## *Chairperson Responsibilities*

The committee meets at the call of the chairperson, and that chairperson is responsible for setting the meeting's agenda. Dr. Butler points out that the support for the committee will need to be figured out. These meetings require public notices, minutes taken and posted, etc. Currently, this support comes from the Department of Law. Bell wonders if the core responsibilities of the committee were changed in any way by HB 312. Is there anything new? Henderson, no, HB 312 just adds the specific duty to make emergency regulation recommendations to the AG. The committee's makeup, goals, and objectives stay the same. The duty of the committee to provide recommendations and consultation with the AG is a check and balance the legislature desired in order to not give the AG too much control over substances that are not yet scheduled. Coile is concerned the committee has already departed from its initial focus. If the committee as a whole wants to refocus, Henderson believes that it would be appropriate to do so at the call of the new chairperson. Dr. Butler adds that the committee must stay within the confines of its statutorily defined duties. Bell, so if this committee is now under the Board of Pharmacy, so should any funding for support? Henderson responds that it is an issue to be discussed because as it is now, the Department of Law provides the support for this committee. Butler wonders, does the statute allow the Board of Pharmacy chair to designate anyone else as chair of the committee? Henderson, no I believe it does not. It is decided that Henderson and Bell will meet at a later date to discuss the details of transferring the chairperson duties to the Board of Pharmacy.

## **General Discussion**

### *Kratom*

Seneca Theno, prosecutor for the Municipality of Anchorage, previously reached out to Dr. Butler in regards to the substance Kratom and whether or not it has any medical purpose. This is exactly how these types of substances come to the forefront of discussion and get scheduled. Kratom is an emerging issue for law enforcement. Sgt. Haywood of the Anchorage Police Department (APD) believes it is going to hit like Spice did. Spice came in new, hit hard, and then began to be mixed with other substances. Sgt. Haywood believes Kratom is more addictive than Spice and it is already being sold in stores and online. She believes it could be a dangerous drug if we allow people to sell it.

Dr. Butler provides the committee with a general description of Kratom. It is a plant with a number of active ingredients and is used primarily as a stimulant. Kratom is in the same class as coffee, but in higher doses it has an opioid effect. It has a ceiling effect similar to other partial agonists. There is concern over deaths occurring nationwide that involved this substance. Currently, it is not regulated

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tightly. Two cases have occurred in Alaska in which Kratom was purchased online and once in Anchorage. There was a move by the DEA a couple years ago for an emergency regulation. However, some want it viewed as a nutritional substance. Nothing came of the move and it is currently not controlled by the federal government. The DEA's attempt was withdrawn due to public comment and Kratom is now classified as a drug 'of concern'. No other official action has been taken.

## *Law Enforcement interaction with Kratom*

Greenstreet provides that, from a Department of Public Safety (DPS) standpoint, Kratom hasn't really pinged on their radar. He likes the proactive stance the state is taking on these issues. It may not be public enemy number one, but it is good to be taking a look at it. There are not a lot of cases involving Kratom yet, but there is some concern. Since March 2018 at least 6 other states have made it illegal - so clearly it is a national concern. Kratom can be attractive to employees subject to urine analysis because it does not show up in tests. It is not being targeted by DPS currently. Sgt Haywood believes the next step is for Kratom to be laced with other things. Similar to how Spice was initially, Kratom is not picked up by drug testing. APD is concerned it will hit like Spice did and are keeping an eye out for it.

Greenstreet reports that DPS has reached out to the National Association of State Drug Enforcement investigators. They are a great forum for conversations like this. He is waiting to hear back and will share with the committee what he learns. Henderson would like to know if the State Crime Lab has seen it and if they have any field tests for it. They do not. Andy Jones of OSMAP has heard it is out on the street, but the big worry is the message that is going out to the public that Kratom is a good pain killer, etc. Dr. Stinson has heard from patients that come in that it is similar to Spice. It is not on the standard testing and not picked up by urine analysis. It's more for the high than the pain management, essentially a replacement for Spice, and it's easy to consume. Jones reports that it is a controlled substance in 16 countries. He suggests the committee or law enforcement reach out to the states that have made it illegal and learn some of the facts behind those decisions. Coile, so at this point there is no emergency to take to the Attorney General? No, not at this point. Henderson doesn't believe we have enough information yet. We need to see if there is any data to suggest a pattern of abuse. If so, the committee could make a decision on whether or not to draft a letter to the governor. At this point, the AG would not have the authority to make an emergency regulation due to Kratom not already being a federally controlled substance. Mr. Branson adds that the city attorneys are in a position in line with APD in that they want to stay ahead of this drug. At this point, if users get behind the wheel with this drug we can't stop them. The city's main concern is the need to stay ahead of this. Henderson is in agreement. We need to pull that data together to assess the public health risk the drug poses.

## *Tracking Substances of Concern*

Bell, does public health track this substance? Dr. Butler, no we do not. Bell wonders if maybe that is something we can do on this end - create a system for tracking drugs of concern that are not yet scheduled? Dr. Stinson suggests using data from emergency rooms. The ERs are the ports for where you find out what is going on. Bell asks, if we wanted to do any of these studies, etc. who funds those efforts? Henderson responds that the committee could either ask for legislative funds, if appropriate, or the members of this committee could ask their prospective bosses to see if their agencies have any discretionary funds available. Federal funding could also be available - CDC, DEA, FDA. Bell wonders what are the other drugs law enforcement is seeing? Henderson suggests we could look at drugs that

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are currently federally scheduled and those that as a state we haven't scheduled, and cross reference those lists against what drugs we are seeing here. No reason to schedule things we aren't seeing.

Greenstreet reports that it is very initial, but we are definitely seeing an uptick of Kratom use. Referenced as "the new spice". Henderson states that this is the data we need. The committee is in agreement about gathering data and the importance of trying to get ahead of this drug. Bell wants to know if we could track its use and do a study of it in the emergency rooms as a way to measure as Dr. Stinson suggested. As a group, all we can do is really track it. Sgt. Haywood offers that she can ask officers to be on the lookout for it and record when they come across it so it can be tracked a bit better. It would be interesting to know how Kratom is being advertised to the public. As something helpful? As an effective pain killer? Dr. Butler, on this topic, CBD could be another thing in the future that we look at. Henderson, and another is the actual chemical makeup of spice so it can be scheduled.

## *Public Request – Electronic Prescriptions*

Henderson switches topics to the email sent to the committee to see what their next steps may be. The email concerns a situation in which a provider discovered their DEA number had been used to obtain fraudulent prescriptions over the phone. The request of the committee is that they discuss ways to improve the safety and integrity of medical care in Alaska by no longer allowing Schedule III prescription be called in.

Bell believes this is more of a Board of Pharmacy issue and the committee is in agreement. The Board of Pharmacy would be responsible for changing the regulations. It is recommended that Henderson forward the email he received to the Board of Pharmacy. Dr. Stinson shares that this is a more common issue than probably realized. Bell adds that medical assistants are not licensed and may not have extensive training so they may be more susceptible to being tricked when fraudulent calls for prescriptions are made. It bothers her that they are not licensed, and thus these licenses cannot be taken away. In addition to sending the email to the Board of Pharmacy, one of the committee's enumerated duties is any proposed or recommended changes we may want to make to the Board e.g. licensing medical assistants. **Who would oversee medical assistants if licensed is undetermined.**

Henderson wonders, should any prescriptions be allowed to call in? Dr. Stinson responds that his clinic has ended the practice but has had some very narrow situations in which they needed to. Dr. Van Hafften asks if the Prescription Drug Monitoring Program (PDMP) contains data of this problem. **Does it track whether the prescription came in over the phone, written, etc.? Bell answers that the PDMP does not track how prescriptions arrive at a pharmacy. However, insurance companies do.** Dr. Stinson adds that the PDMP gives him a compilation every few weeks, not on an individual basis, so he may not know if someone used his name in order to place a fraudulent prescription. Henderson, to clarify, so if someone has your DEA number they can call in a prescription under your name? Stinson, correct. There is a lack of tracking mechanisms in place to track how many prescriptions are called in over the phone. There is lack of control, especially in the retail world. Dr. Stinson doesn't believe the medical board would agree to end the practice of calling in prescriptions because there are scenarios in which it is necessary. It is a problem, and it is not anything new. Henderson states that he will send the email formally to the Board of Pharmacy. Dr. Van Hafften wonders if the Board of Pharmacy has dealt with this before, do they have any reports? Bell, not sure. It really comes down to the individual and the PDMP is in place as a sort of checks and balance already. Dr. Van Hafften, is there an identifiable pattern for these types of after-hours calls? Bell, not really, it's an individual thing that get noticed when there

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are peculiar calls, etc. takes some street savvy. We really need licensing for medical assistants. Henderson, are we comfortable as a committee moving this issue to the board of pharmacy? Yes, the committee is, but would like some follow-up from the board.

## **Public Comment**

Henderson opens up for any public comment. There is none.

## **Next Steps / Next Meeting**

Dr. Van Hafften asks if there are any updates on providing more access to treatment services? Andy Jones reports that the strategic plan is in its final stages. They've taken the information gathered, analyzed it and in August they will come together and create a draft plan for review and signature by the governor. They have some grants for recovery and support services because currently the state lacks that long term approach. Medical assisted treatment is going to be a great component. Some grants will be for 24 hour crisis support centers, which are evaluation and assessment centers to get an individual into the appropriate treatment. More information can be shared in regards to the plan after the August meeting. Henderson notes that the criminal justice commission's sole topic at an upcoming meeting will be the reinvestment of the criminal justice reduction fund. He anticipates some specific conversations about this topic. Jones adds that the hub and spoke model is what they hope to deploy in the state of Alaska. Bell wonders how the state can adequately handle the long term care of folks who need extensive and long term mental health treatment without an adequate number of mental health providers. Jones response that there is lots of overlap and co-occurring situations. It's all about intervention and upstream prevention. Harm reduction efforts will be put in place to create an overall system with many different elements containing front and back end efforts. Warm handoffs, peer navigators - that can make a big difference. It is a piece that our state is missing but could have huge rewards.

## **ASSIGNMENTS**

- ❖ Gather data in regards to Kratom for the purposes of sharing with the committee and determining whether or not it would be appropriate to share these concerns with the governor.
- ❖ Henderson will forward the email concerning the calling in of prescriptions to the Board of Pharmacy, and ask them to follow up with the committee.
- ❖ Henderson will set up a meeting with Lana Bell and the Board of Pharmacy President in order to discuss the CSAC makeup, etc. and hand over chairperson responsibilities.

**Next Meeting: TBD**