

Controlled Substances Advisory Committee

Agenda 2/16/2021

- I. Welcome & Attendance
- II. Review/approval of minutes
- III. Follow up discussion regarding Kratom, Gabapentin, and Spice
- IV. Follow-up discussion regarding current scheduling and definition of marijuana
- V. Public comment
- VI. New discussion
- VII. Next steps / next meeting date(s)

**Of note: the meeting was conducted via zoom and the recording was not started until agenda item #3 due to technical difficulties.

I. Welcome & Attendance

Committee Members: Tammy Lindemuth; Dr. Solan Olamkin; Donna Phillips; Chief Timothy Putney; Katholyn Runnels; Dr. Alexander Von Hafften, Jr

Guests: Derek Walters, Crime Lab

II. Review/approval of minutes

The minutes from the 10/20/2020 were reviewed and accepted as written. Katholyn Runnels will get the approved minutes updated in the system.

III. Follow up discussion regarding Kratom, Gabapentin, and Spice

It was agreed that we would move forward with recommending to the Governor for the scheduling of Kratom as a schedule IIIA controlled substance.

Subsequent discussion ensued regarding gabapentin.

**Here is where the recording began from the zoom meeting.

KR – when you talk about distributing, like if they get enough gabapentin and we can show that they are distributing the drug, if we were to schedule it as a 5A, it would be a Class C Felony at max. But how it would affect the healthcare aspect and their ability to use it, I cannot answer that directly.

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AVH – would there be a requirement by the PDMP to look in the PDMP before whether I am an inpatient prescriber or an outpatient physician?

TL – No. It does not change the PDMP monitoring in the State of Alaska.

AVH – So I don't think that it would impact the flow of clinical work in either the inpatient setting or the outpatient setting except for a nurse or physician who is needing to count pills because they are scheduled, when somebody is getting admitted. Would that be right, Donna?

DP – Yes. So, it would be when we are taking it out of the Pyxis when we count it, like when we count Lyrica and we count Cymbalta, and it would just be one more that we are counting. I think the point about who's writing the medication, I think people in a hospital clinical setting, they can write for these drugs. I know they have the DEA number for the narcotics, but I've never heard that somebody can't write for Lyrica if they are licensed to prescribe medication. So, in the hospital setting I don't see a problem other than now when I go to remove it from the Pyxis, I am now going to count the gabapentin instead of just pulling 3 pills out.

Dr. Olamikan – Is Cymbalta scheduled?

DP – You know, I feel like I count Cymbalta in the Pyxis when I take it out. I was just looking that up. I know Lyrica is Schedule V, I just looked that up. I know we count Cymbalta though.

Dr. Olamikan – It is not scheduled as far as the Federal DEA, and it is not a controlled substance as far as say triplicate ordering, it is not triplicate.

DP – but in the hospital setting maybe they make their own rules, but we count that drug.

Dr. Olamikan – If it won't affect clinical use, then I don't have an objection. May I ask another question? This has more to do with criminalization of drug and medication use. And just the general consensus as we go forward and look at the impact of criminalization of drugs and medications, does the group have any concerns with criminalizing another drug again considering the history of the criminalization of drugs? Because I am hearing about making these things misdemeanors and felonies and I am a little concerned about that.

KR– I think the goal with scheduling it is not necessarily the criminalization of it, but to try to stop individuals from getting those drugs. Like you said, you believe this is a drug that needs to be managed by healthcare professionals, by doctors who know what this drug is, and part of the problem here is when you see the widespread abuse that we are seeing in Western Alaska specifically, it is not being managed by doctors. It is being managed by people who can order it online, get thousands of pills, and hand those out. And the idea with it, is to try to be able to intercept it and to be able to stop that supply reaching Western Alaska where it can be abused is the goal and I would turn to Chief Putney as well for that. The idea is to try to intercept them, so we are not penalizing or criminalizing the user, but trying to keep it out of the hands of those that want to abuse it.

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Chief Putney – That is accurate. In fact, in most cases, I would argue that this is going to be a postal service thing. When they get the package, they are going to rip it because it is suspicious. It is going to have a couple thousand gabapentin in it and if it's not illegal or controlled they tape it back up and send it to its destination. So, this is just a tool that law enforcement across the state can use to keep it from falling into the hands of people who are using it for abusive reasons. And maybe a very small percentage of those will ever result in a criminal case.

TL – at this point, it would be good to get Dr. Anne Zink's input on this. And I really appreciate your input Dr. Olamikan.

Dr. Olamikan – thank you.

TL – We want to do the recommendation, but I think we can hold off on getting that in a letter to the Governor after we get Dr. Zink's input regarding this issue, and Dr. von Hafften I know you wanted that as well.

AVH – yes.

TL – Okay. We will wait to have more input from Dr. Zink and then we can discuss that at the next meeting as well.

ALL AGREED

TL – Regarding Spice, is there any new information? I didn't hear any new information myself and I still need to speak with Dr. Zink about that.

Derek Walton (Crime Lab) – I am currently attending the American Academy of Forensic Sciences conference which has quite a bit of information on controlled substances and toxicology and just one piece of interesting information that came up is that they noted that the typical life cycle of a synthetic drug in the market is about 6-9 months, so after 6-9 months that drug disappears from the market and is largely replaced by other substances. In many cases something from the same class, for instance a synthetic cannabinoid might be replaced by another synthetic cannabinoid, a different one, but that initial one kind of stops being prevalent at that point. Like what we had talked about previously, I had drawn the comparison between the way synthetic cannabinoids are scheduled in the Alaska Statutes, which are drug by drug, name by name basically, and comparing that basically to the substituted cathinone statute, how those are more of a centralized structure with the ability to control different modifications and that that allowed a little bit more flexibility in responding to those sort of emerging drugs. Just thought I would share that piece of information.

TL – that is very interesting. Thank you, Derek. I wonder how the law is going in Texas. How they've written it up with the specific language.

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KR – I had reached out to a prosecutor friend of mine and he, unfortunately, doesn't deal with it enough to give me any concrete solid advice. But I can try to reach out to him again and see if he can direct me to somebody that would.

TL – anything else on spice?

Derek – for what it is worth, I was going to mention the frequency to which with the lab is encountering suspected synthetic cannabinoids has been very low. Kind of in conjunction with the frequency of Kratom submissions being quite low recently.

IV. Follow-up discussion regarding current scheduling and definition of marijuana

TL – last time, Derek, you gave us really great information on this, as well as Kat. You have both given us good information on the language that is written around current marijuana laws and how we needed to expand that so things that had less than 0.3% weren't being put into that same category. Have you two been able to get together to talk more about that?

KR – unfortunately with my schedule, we haven't been able to get together with Derek to come up with something and form some language that we could propose. For Dr. Olamikan, this was part of a discussion where right now the definition of marijuana would potentially criminalize CBD products and so we are talking about changing the definition of marijuana so that it would not criminalize certain products, specifically CBD products.

Dr. Olamikan – I see, thank you for clarifying.

Derek – Yes, I think last time we had talked a little bit about clarifying whether products that were derived from hemp were intended to be controlled products or not and how that was going to fall within the language, and I think kind of backing off of that question even a little bit is the intent of that even to control hemp derived products at all because it kind of makes it seem like if it contains THC at a low level but it doesn't meet certain criteria, then it can still be considered a controlled product when the implication is that given a very low level of psychoactive substance it would unlikely be intoxicating, so I think just having a little bit more clarity around what the intent of that law was. And then we had talked last time about the need for the crime lab to be able to be able to make that measurement to determine if it was above 0.3% or below 0.3%, we are moving forward on that. We have the instrumentation for that, and we are going through the validation process. That process is going to be a multipart process that is going to begin with plant material because that is the most common submission that we get where this question is asked, okay is it a controlled substance, is it marijuana, or is it intended to be a noncontrolled substance being industrial hemp, so that process of moving forward.

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TL – we had hoped to have a discussion with someone who is on the Alcohol and Marijuana Board, but we haven't at this point yet.

Derek – I wouldn't want to make a recommendation. I am obviously not a member of this board, I am just a guest, but if I were a member of the committee, I wouldn't want to make a recommendation that would "step on their toes", for lack of a better phrase. A further question that is going to be asked during the development of this procedure is THC is actually in two forms: plant material, and when the plant material is smoked or heated, those two forms are converted into one form which is active tetrahydrocannabinol. In the fresh plant material, there is the acid version of THC which is called THC A, and so that heating process is what converts it into the active ingredient. THC A by itself is not active, so even if you drank some of the stuff it is not going to cause you to become intoxicated because heat is what causes that conversion into the active component. So, when you think of the use of marijuana which is typically either smoking it or if you're producing some kind of concentrate product, often there is the heating step that causes that conversion to take place. That's what results in that ability to become intoxicated basically. So, where this kind of comes back to the legal component is when they say 0.3% THC, is the intent to reflect both of those chemicals or is the intent to reflect only one of them, and that becomes important because the additive effect of the two of those could put you over that 0.3% threshold so the question is, do we interpret that as meaning one of the two, or both, or the additive number of the two. So that might be another opportunity for clarification in the statutes. And just as a corollary for that, the method that the lab is working on would be able to answer that question even if it needed to be okay, we need to calculate both of those separately, or you need to add them together. Our method would be able to do that, but for the purposes of a prosecutor interpreting the statutes or a law enforcement officer interpreting the statutes, we would want to have a good way of communicating that to them that would be able to be easily compared with the information in the statutes.

V. Public comment

None.

VI. New discussion

Chief Putney – there are a couple of new drugs out there. But like Derek said, in 6-9 months they might not be much of a concern. This is from the lower 48. I haven't heard of it in Alaska yet, but Parafluorofentanyl and Brorphine. Basically, another fentanyl and other Brorphine, other potent synthetic opioids. They are referring to it on the street as Purple Heroin, as it looks kind of purple and chalky.

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Derek – I just watched a presentation on that this morning through the same conference and we are familiar with those substances. Parafluorofentanyl is a fentanyl analogue, a derivative of fentanyl, and would be expected to have a very high analgesia, a very strong pain killing type effect and we haven't seen that to my knowledge in any forensic casework in Alaska at this point. The same is true of Brorphine and other potent opioid type products, and we also haven't seen that up until this point. Another one that I am aware of is Isotonitazene. That's another potent opioid-type product that we are aware of circulating and becoming more frequently abused and seen in forensic casework in the lower 48. I also have not seen that one in Alaska up till this point. Basically, I would characterize those as extensions of existing trends in synthetic drugs.

KR – Derek, would those fall under the schedules of what we currently have fentanyl scheduled, or if we were to see those, would they come back as no controlled substances?

Derek – I would have to look in the statutes. I am fairly certain that none of those would be considered controlled at this point. You know, Parafluorofentanyl is already listed in the Alaska statutes under Schedule IA, and IA I believe does have some provisions for isomers, so even if it were a close relative, I would expect that to be controlled already. Brorphine, I don't believe that would be considered controlled in Alaska at this point.

TL – the same goes for the Isotonitazene?

Derek – correct. I do not see that listed in the statutes.

TL – in thinking about the stat Derek that you shared with us that you learned this morning, that the lifecycle of a synthetic drug is 6-9 months.

Derek – yes. A question that I had going into those presentations was that a lot of states have similar challenges with regards to scheduling substances, you know how quickly they should be scheduled?, what kinds of evaluation should go into that determination?, and Alaska is certainly not exceptional in that regard. All states are struggling with these questions, particularly given the speed with which substances become replaced.

KR – Derek, are you tending to see more and more, or has it sort of plateaued? The synthetic? Because for awhile you said that you were seeing synthetic benzodiazepines.

Derek – I think that's the most common category of novel psychoactive substances that we are seeing right now, would be benzodiazepines, the primary ones, there would be etizolam, and also flualprazolam which is a fluorinated derivative of alprazolam. I think those are probably the most common two, although we do see some in lower frequency. You know, if you're not aware of that, a lot of drug discovery work that was done maybe back in the 70s or 80s, it does seem like there are bad actors as you call them out there on the world stage who kind of troll through old research documents looking for known compounds that would exhibit activity, so they are looking for something to substitute the two for alprazolam, because alprazolam is

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controlled and so they rifle through these documents and find something they can synthesize with materials that are on hand and then they go about that synthesis and attempt to market that product. It seems like a fairly sustained trend that is kind of driving a lot of the synthetic drug issues that we are seeing right now.

VII. Next steps / next meeting date(s)

TL – seeing no further discussion, moving ahead, and thinking about what we need to do. I will write up the letter to the Governor regarding Kratom itself, giving that recommendation to the Governor; get feedback from Dr. Zink regarding the gabapentin. As far as the next meeting, potentially May 11th.

AVH – it would be nice to get someone from the Alcohol & Marijuana Board to be a guest for the next meeting.

Dr. Olamikan – it would be nice to meet later in the day for scheduling purposes with a normal workday. I am leaning more towards 3 p.m. but want to take everyone into consideration.

TL – let us try 2:30-5:00 pm

KR – that works. Gives us more time for public notice.

TL – look for a link closer to that date in an email from Kat. And we will work to have a member from the Alcohol & Marijuana board join us. Need a motion to adjourn.

AVH – motion to adjourn; Donna – seconded. All agreed.