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SB 284 – ADVISORY TASK FORCE ON HIV EXPOSURE MODERNIZATION

July 8, 2020

4 p.m.

Webex Teleconference

Draft Minutes

TASK FORCE MEMBERS PRESENT:

Senator David Parks
Senator Dallas Harris
Steve Amend
Andre' Wade
Stephan Page
Ruben Murillo
Quentin Savvoir
Octavio Posada
Vince Collins

TASK FORCE MEMBERS ABSENT:

None

DIVISION OF PUBLIC AND BEHAVIORAL HEALTH STAFF PRESENT:

Tory Johnson, MMgt, Section Manager, Office of HIV
Rhonda Buckley, Administrative Assistant II, Office of HIV

1. Call to Order, Roll Call – Tory Johnson asked Administrative Assistant II Rhonda Buckley to conduct roll call. All nine (9) Task Force members are present; quorum met.

2. Public Comment
(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.) - Mr. Johnson asked if there were any public comment; there was none.

3. Nomination and Election of Chair and Co-Chair *(For possible action)*
Mr. Johnson stated the Office of HIV is an advisory to the Advisory Task Force, and is to assist with administrative duties. He entertained the idea of having a Chair and Co-Chair at the discretion of the Task Force, and if they were in agreement, the Task Force could move forward with nominations. Or, the Task Force could appoint a person to be liaison to work with the Office of HIV to coordinate meetings, minutes and other activities as needed. Mr. Johnson turned the meeting over to the Task Force to further on how they would like to move forward in terms of structuring the Task Force.
Steven Amend nominated Andre' Wade as he feels he would be a great Chair. Octavio Posada seconded the motion. Mr. Wade noted Senator Dallas Harris asked a question of the Task Force; are the Chair and Co-Chair elected officials? The answer given (unknown by who) was no. Stephan Page stated he also thinks Andre' would be a great Chair, and asked if the Task Force could nominate one of the two (2) Senators for the Co-Chair position. He asked if Senator David Parks or Senator Harris were interested. Ruben Murillo nominated Sen. Parks for the position of Co-Chair as he was instrumental in writing Senate Bill 284 and he thinks it would be appropriate to have him as Co-Chair. Mr. Page announced Sen. Harris said she would love to be Co-Chair. Mr. Page said he also thinks Sen. Parks would be great, but, since Sen. Harris is expressing interest, and if Sen. Parks is not interested, the Task Force should appoint Sen. Harris.
Mr. Murillo asked if Sen. Parks was on the call. Mr. Johnson noted both Senators were on the call, and both were 'on the floor' of the Senate due to Special Session. Mr. Murillo said if Sen. Parks did not want to be Co-Chair, then Sen. Harris would be appropriate. Mr. Johnson noted Sen. Parks did not comment one way or the other. And Sen. Harris has expressed interest, but with her being on the floor, she could not fully participate due to Special Session, at the moment.
Mr. Johnson said standing any other nominations for Chair or Co-Chair, he heard Andre' Wade for Chair, and Senator Harris for Co-Chair. Mr. Johnson asked the Task Force for a joint or separate vote. Mr. Amend seconds the motion and for the Task Force to take a joint vote. All in favor voted 'Aye,' none were opposed or abstained. Mr. Amend notes motion carried for Andre Wade as Chair and Sen. Harris as Co-Chair. Mr. Johnson said as the Task Force has elected the Chair and Co-Chair, he turned the meeting over to Chair Wade.

4. Review and approve Task Force By-laws *(For possible action)*
Mr. Wade expressed his appreciation for the Task Force's vote of confidence. He then addressed Agenda Item 4. Mr. Johnson explained to the Task Force the basis of the by-laws were created by his staff in September 2019, when the initial meeting of the Task Force was planned. The meeting was postponed at that time due to no appointments being made. He told the Task Force to feel free to edit and revise the by-laws as they see fit. Mr Johnson shared the by-laws from his computer screen for all to see. Chair Wade asked Mr. Johnson to clarify the origins of the mission under Section 2.
Mr. Johnson explained the by-laws were created by staff in order to get the Task Force going, and by no means are to be kept or adapted. But with limited information the Office of HIV had

at the time from what was presented in SB 284, staff tried to formulate information into the by-laws to get the Task Force going.

Chair Wade asked the Task Force for any recommendations or revisions to the by-laws as the proposed mission. Mr. Murillo said it seems that the by-laws take what was listed in the provisions of SB 284 and were just wrote them in. If the Task Force adopts the by-laws, his concern is the deadline of September 1, (2020), in terms of completing all of the requirements of the Bill.

Mr. Amend agrees with Mr. Murillo in that the by-laws mimick the Bill itself, and that the Task Force is limited by the Bill as it states the report is to completed by September 1. He said it's probably nearly impossible to do, especially with all the areas they are being asked to look into, and he's not sure the best way to work around that. He said he didn't know if they could get into the Special Session to extend the deadline date. Mr. Murillo noted unless this item is on the agenda (during Special Session) it would not be discussed. Mr. Murillo noted, to the best of the Task Force's ability, due to a late start of the Task Force, to clarify to whomever it may be, it's not that the Task Force didn't try to make it (deadline), but it's going to be almost impossible to get this done. He asked for clarifying language that the Task Force will do its best, or language similar to that. Mr. Murillo asked what section of the by-laws this was under. Chair Wade and Mr. Amend identified the article and section. Mr. Amend then read the guideline. Mr. Murillo said the Task Force can work on the activities and if they are unable to complete the goals of the Task Force by the deadline, the reason be included in the report for not completing set goals.

Mr. Page said he has no issues with the by-laws but is concerned about the deadline as well, unless they could change the date. Mr. Page asked Mr. Johnson if he knew if the date could be changed. Mr. Johnson stated, not that he is aware of. It was his understanding this date was pretty much set in stone. Mr. Murillo agreed that unless this could be taken up for discussion in Special Session, it's not going to happen. He said the Task Force would have to work with the date of September 1, and submit a report and indicate they would need additional time so they may continue to work on the goals. Mr. Amend agreed but also noted the Bill says to submit a report but does not state final report. As long as they submit report of activities, findings and recommendations up to that point, the Task Force would still meet the spirit of the Bill.

Mr. Murillo agreed, and, moved to adopt the by-laws as presented. Mr. Amend seconds the motion. Quentin Savwoir said he was not opposed to the motion, but considering both Sen. Parks and Sen. Harris are both in the meeting, if there was a mechanism to extend the deadline, as it does not hurt in asking. Mr. Page asked if there was a way to approve the by-laws at the time, and possibly amend them at a later date. Mr. Murillo stated as the person who made the motion, the intent is to adopt the by-laws and if there is a chance, revisit them later. That was his understanding.

Chair Wade moves for a vote to adopt the by-laws. Mr. Murillo states he already made the motion, and the motion needed to be voted upon. Chair Wade asks for all in favor to say, 'Aye,' none opposed or abstained. Motion carried. Chair Wade notes by-laws adopted as submitted.

5. Review and discuss requirement of NRS 201.205 (2019 Senate Bill 284) and approve next steps for Task Force (*For possible action*)

Mr. Amend points out under Section 10 of NRS 201.205, it gives information as what the Task Foce is to do, (reads portion the statute). He noted with the limited amount of time, members of the Task Force volunteer for different sections (a through f of the statute), do the research and bring the information back to the Task Force at the next meeting, unless there are other ideas.

Chair Wade asked Mr. Page to share what the HIV Coalition has researched so far. Mr. Page announced he is a member of the Nevada HIV Coalition. In addition to NRS 201.205, the Coalition has identified three parts of the NRS that could be amended. Also, NRS 201.358, which has to do with test workers and people living with HIV. And, NRS 441A.300 and NRS 441A.180, both of those have to do with health authorities in terms of, labeling risky behavior. Mr. Amend said those were the four sections they have identified and the collaboration with the legal (lawyer) they are working with.

Mr. Murillo asks if this (Coalition) is the group who was working with AFAN, and other groups. Mr. Page said yes, that they have been working closely with the Sara Project, a national organization project, and all members have some affiliation with local, state or national organizations, either doing HIV work, public health work or similar works. Mr. Murillo asked Mr. Page if they have a written document or report of activities the Task Force could get. Mr. Page said they do have some documents, a palm card and pamphlets and a report with details in regard to the NRS. Mr. Page said he would be happy to send this information to the Task Force. Chair Wade asked if someone could do research on legislation and possible and any changes being made, which are in alignment of what the HIV Coalition has developed. He said there are a few other items that were brought up, and at some point he could share with everyone what those additional items want to be discussed as well.

Mr. Page asked Mr. Johnson if he would like him to take the NRS sections of the by-laws in the workshop. Mr. Johnson replied, yes. Mr. Page said he would. Chair Wade asked the Task Force how often they would like to meet, given the timeline, and how they would do the division of the tasks. Mr. Murillo said the Task Force would have to meet often, once a week if they are going to come up with a report by September 1. He also said in terms of assigning the different subcategories for people to work on, it seems many of them would require legal research. He asked if this was something that people they work with, such as Lamda Legal or Silver State Equality, they could ask for help. Mr. Amend mentioned he was a criminal defense attorney (public defender) for about eight (8) years, and he is familiar with a lot of these statutes already. He would be happy to do the research on the case law, how other states have handled it (under item e and f, at least e, of Section 1). Mr. Amend also has contacts through the ACLU National HIV Project. He can reach to them also to see what type of work they have done on this.

Mr. Page said he would be happy to contact the lawyer the HIV Coalition works with, too. He said the lawyer would probably be happy to join in on the meetings and maybe speak under public comment. If this is something the Task Force is interested in he will reach out and ask the lawyer to call in.

Mr. Murillo asked Chair Wade if the firm they are working with (Silver State Equality), have they done research that would fit into some of the categories. Chair Wade said a significant amount of research was done and they produced a memo that was in alignment with what was on the page in reference to different statutes, and that could help everyone in where they are at in consensus around current findings.

Mr. Amend noted one thing that might be helpful is if everyone shared the information they have already gathered and have another meeting in a shorter amount of time and in the meantime, think among themselves and how they might best tackle the information and put it into a report. He said it sounds like a lot of the work has already been done, so instead of reinventing the wheel, with the work that is done, review it and see where they can go from there. Mr. Murillo noted it was a good idea, and Mr. Page agreed. Mr. Page asked if they wanted to set the next meeting for the following week, as Wednesdays at 4 p.m. work for him. Chair Wade said the same works for him, and asks the others if this works for them as well. All

agreed on day and time. Chair Wade tentatively schedules all follow-up meetings for Wednesdays at 4 p.m.

Octavio Posada asked Chair Wade how they will keep or share the information, i.e., Cooldrive, Drop Box, as information would need to be brought forward prior to the meetings. Mr. Amend noted it should be sent to Mr. Johnson first, for dissemination. Otherwise they may be in violation of Open Meeting Law as they cannot communicate outside of the meeting. Mr. Johnson noted he has not worked with this type of group before, and it does apply to Open Meeting Law, and since it is the first meeting of the Task Force, is unsure if it applies to Open Meeting Law, or, and he's not sure, if the group wants to make it closed (to the public). Mr. Amend said it would need to be open to the public. Mr. Murillo also commented it is open to the public, but the only time they can speak, is under public comment. Mr. Johnson thanked them for the information as he wanted to be sure.

Chair Wade said to Mr. Johnson that by way of process, the Task Force members would send information to them to help with organizing documents, record keeping and sharing documents. Mr. Johnson said yes, please do.

Chair Wade asked if there were any other items to be discussed or flushed out. Mr. Murillo said he had one more question about Open Meeting Law regarding emails, that a person is not to 'reply all' on emails, and asked for clarification. Mr. Johnson said if he sends an email to the Task Force, do not reply all. They can respond individually, but do not reply all as that would constitute a meeting and be in violation of Open Meeting Law. Mr. Page asked Mr. Johnson, to schedule a meeting and be in compliance with Open Meeting Law, could the Task Force schedule their next meeting for the following Wednesday, and meet the requirements for when a meeting needs to be posted. Mr. Johnson said it has to be posted 72 hours prior to the day of the meeting. He said the agenda is sent to the Chief Deputy Attorney General, Linda Anderson for review, and she advises what can and cannot be done. Mr. Murillo recognized the agenda would have to be done quickly, and suggested Mr. Johnson, Chair Wade and Co-Chair Dallas, go over the agenda for possible action items, and follow his path to the DAG, and have it posted within the 72 hours. Mr. Johnson said to possibly have the meeting two weeks from July 8, as he did not have a response of confirmation from Sen. Harris.

Mr. Murillo said that if the Task Force is going to have some kind of report due by September 1, they really could not delay the meetings. He suggested they meet every week, and if someone was not available to attend, they would know what's going on as the meetings are being recorded. Mr. Johnson said he understands and his concern is that both Chairs have to approve the agenda prior to posting, and if Sen. Harris is not able to reply to Chair Wade in a timely fashion, that probably would not give him enough time to get the agenda to the DAG for review, and still meet the 72-hour deadline. Mr. Amend suggested the Task Force do its best to get it done by next week or there may be no way to get the report done. Mr. Posada proposed to have weekly meetings providing members make it every week. He also asked the group, as far as how they would communicate, considering Open Meeting Law and the information they have to share.

Chair Wade thanked Mr. Posada for this question, and noted Sen. Harris has said 5 p.m. would work better for her for the weekly meetings. If 5 p.m. was better for everyone, please let him know. All Task Force members noted 5 p.m. would work for them. Chair Wade asked if 5 p.m. would work for him and his team. Mr. Johnson replied yes.

Chair Wade went back to Mr. Posada's comment, stating the members would have to be succinct in their agenda and that there is an hour and one-half dedicated to the meetings and must stay on task. Mr. Murillo asked Mr. Johnson to find out, that if the Task Force worked in subcommittees (to get the work done), would it be in violation of Open Meeting Law. Mr.

Johnson said he could ask and find out. Mr. Murillo said they could have subcommittees meet and report back to the Task Force at the general meeting. Chair Wade said if the Task Force did that, they could not call it a “sub-committee” as it would require additional steps, but would like Mr. Johnson to look into it as they would call it “something else.” Mr. Murillo asked if it was because they are a Task Force and not a Committee. Chair Wade said that was his understanding. Mr. Johnson said he would reach out to legal and how they best advise him to proceed. Mr. Johnson addressed Chair Wade and Sen. Harris, letting them know he will need an agenda the following day for the upcoming meetings for review and approval to meet the 72-hour deadline.

Mr. Amend asked if for the next agenda to possibly put the Deputy Attorney General as an item for discussion regarding Open Meeting Law. Mr. Johnson said he could make that request as well.

Mr. Murillo made a suggestion to Chair Wade, that with information compiled and reports generated, be tied into the suggested items worked on. Chair Wade clarified that they would discuss what has been covered and what would still need to be covered, on the next agenda. Mr. Murillo also suggested a timeline between the next meeting and September 1, in regard to goals and benchmarks of the Task Force.

Mr. Posada noted he had a question, does use of the text box (via Webex) violate Open Meeting Law. Chair Wade noted it was a good question. He believes they are public record, but asked Mr. Johnson to check on this (with the DAG) as well. Mr. Johnson said he had a list of questions he is making note of. Mr. Page said to help Chair Wade for the upcoming agenda, there is an agenda item to review documents from the HIV Coalition regarding the four (4) statutes, and asked if there were any other recommendations for agenda items. Chair Wade noted Mr. Murillo also wanted to do a timeline with benchmarks for discussion. Mr. Murillo asked Mr. Page if his recommendation includes the documents Silver State Equality has, as he would like these to be included with research.

Chair Wade noted the following items for the upcoming meeting agenda, as, the two different reports; one from the HIV Coalition, and one from Silver State Equality. Also review of timeline and goals with benchmarks, and clarification on Open Meeting Law, and take a look at starting the process of finding out where they are with the current information and what they still need to work on to write a complete report.

Mr. Savvoir commented that before the group approved the by-laws, there was conversation about having the deadline extended. Mr. Savvoir noted having six weeks to perform such exhaustive research to produce a report feels a little arduous even with fifteen (15) people. Speaking for himself, he has a full-time job, and a full-time commitment to movement as well, and he does not, for lack of a better word, ‘half-step’ this very important research. He thinks it would be smart for the group to revisit, if possible, to get an extension and what that would require. It would be as simple as a letter from Director Whitley. But if the group is mandated by Legislation to have something by September 1, it might require more than that. Mr. Savvoir wanted to propose this as an agenda item so the Task Force does have to rush and not have its back against the wall.

Mr. Murillo said he thinks it would have to be an agenda item, but Mr. Johnson could ask the question to legal as he will be asking about Open Meeting Law. Mr. Page noted the only issue with it not being on the agenda, is that it’s already in the by-laws, and maybe have it on the agenda as a possible amendment to the by-laws. Because you would have to amend the by-laws to change the date (of the deadline). Mr. Posada said in regard to the report, there are no specifics as to how the report would look like. He said the Task Force should prepare for the deadline to not be extended, and maybe provide a complete report at a later date.

Mr. Page said even though they have the September 1 deadline, it's not the end of this work. The LCB will continue doing research upon whatever recommendations the Task Force gives them. And if a Bill is introduced in 2021, they can always add amendments to that as well, or work with the Legislature to sponsor that Bill, to make sure it's better.

Mr. Murillo noted one of the recommendations the Task Force could make is to continue to work through the next Legislative session since they were not given enough time to do the work.

Chair Wade said all recommendations sounded good to him. He addressed Mr. Page's point, and to hopefully decrease some anxiety, the Task Force report isn't the end all. There are some other steps that will still need to be done, and an opportunity for folks to continue to advocate. Nonetheless, they will work on timelines and see if they could move the deadline date. Chair Wade asked if there were any other items for discussion, or any questions. There were none. Chair Wade noted the next meeting was set for July 15 at 5 p.m., and all future meetings are set for Wednesdays. Mr. Amend asked if Chair Wade wanted to call for public comment before adjourning.

6. Public Comment

(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 if so, state their name and keep comments to 2 minutes in length of time. There was no public comment.

7. Adjournment

Mr. Savvoir motioned to adjourn the meeting if there was no public comment; Mr. Amend seconds the motion. Chair Wade adjourned the meeting at 5:04 p.m.