

Illinois Forensic Science Commission- Public Policy Subcommittee

Meeting Minutes

February 23, 2024, 11:45 a.m. meeting

I. Call to order

John Hanlon, chairperson of the subcommittee called the meeting to order. The meeting was held via WebEx.

II. Roll-call

The following people were present:

1. John Hanlon, FS Commission Member, subcommittee chairperson
2. Jillian Baker, FS Commission Member, subcommittee member
3. Claire Dragovich, FS Commission Member, subcommittee member
4. Phil Kinsey, FS Commission Member
5. Amy Watroba, Executive Director-FS Commission
6. Senator Julie Morrison, Illinois Senate-29th District
7. Shannon Alderman, Illinois Department of Transportation
8. Gina Havlik, NIRCL
9. Sabra Jones, Regional Toxicology Liaison NITSA Region 5
10. Amy Miles, Wisconsin State Laboratory System
11. Mark Milford, NIRCL
12. Larry Shelton, ISP
13. Lindsay Simpson, NIRCL

III. Review/Adoption of the Minutes of December 1, 2023.

The vote to approve the Meeting Minutes of 12/1/23 was postponed due to a lack of quorum of subcommittee members present at the meeting.

IV. Cannabis Impairment

1. An overview of the pharmacokinetics of cannabis, the history of toxicological testing of bodily fluids for the presence of cannabinoids as related to Illinois criminal law and reporting and testimony requirements was presented by Larry Shelton (ISP) and Lindsay Simpson (NIRCL).
2. Larry Shelton first shared a power point presentation providing a historical overview of how ISP has tested for cannabinoids in the past and its current testing practices and capabilities.

- i. Following Mr. Shelton’s presentation, John Hanlon posed the question about the subcommittee’s mandate to study the 5 ng/mL and 10 ng/mL *per se* amounts in 625 ILCS 5/11-501.2(a)(6). Mr. Shelton responded that the “other bodily substance” language in the statutory provision is not well-defined and noted that the original intent may have been to address oral fluids. Mr. Shelton further noted that the 5 ng/mL and 10 ng/mL amounts may be somewhat arbitrary and further explained that ethanol is unique from other substances for purposes of DUI and *per se* amounts and that confusion related to the testing for ethanol versus other substances may also be a contributing factor to confusion regarding the cannabis-related statutes.
3. Lindsay Simpson shared a power point presentation discussing the topics of differentiating between “free” Delta-9-Tetrahydrocannabinol and D9-THC metabolites. Ms. Simpson explained that “free” D9-THC is never present in urine and further explained how the use of hydrolysis on urine to identify D9-THC does not identify a compound that was actually present in the urine sample. Ms. Simpson shared the statutory language of 625 ILCS 5/11-501 (a)(7) and 625 ILCS 5/11-501.2(a)(6) and explained a laboratory in the area has been reporting “no free cannabinoids detected,” performing hydrolysis on urine samples, reporting out total THC amounts, and then testifying “free” D9-THC was present in the urine, a practice which is factually incorrect. Ms. Simpson outlined possible statutory amendments that could be adopted to address this issue. Ms. Simpson also discussed how cannabis metabolites can remain present in urine for many days after the “parent” substance (free D9-THC) is used by a person and, thus, the presence of cannabis metabolites in urine is not indicative of recent use. Ms. Simpson noted that any testimony to the contrary in a criminal case would not be factually correct.
 - i. Following Ms. Simpson’s presentation, questions were asked and discussion ensued about whether labs generally receive samples of both blood and urine in a particular case and how to get word out to submitting agencies that submitting only urine for analysis in DUIs is not preferred. Different practices for cannabinoid screening at different labs were also discussed.
 - ii. Ms. Simpson recommended that the Commission support amendments to Illinois’s DUI laws that would clarify that “Delta-9-Tetrahydrocannabinol” as used in the statute means “free” or “parent”

D9 THC, not metabolites of D9-THC. NIRCL is working with Senator Morrison on possible language to amend the statutes.

- iii. Claire Dragovich suggested that the subcommittee meet again prior to the FS Commission's quarterly meeting (on March 18, 2024), so that the Public Policy Subcommittee can submit a recommendation that the Commission support legislative amendments to the DUI statutes in accordance with the concerns addressed during the presentations.

V. Public Comment

There were no public comments.

VI. Meeting Schedule

The next meeting is scheduled at 11:45 a.m. on March 8, 2024, via Web Ex.

VII. Adjournment

Subcommittee chairperson John Hanlon adjourned the meeting at approximately 1:00 p.m.