

## Therapeutic Cannabis Medical Oversight Board

October 5, 2022, DHHS Offices, 29 Hazen Drive, Concord (with Remote-Zoom option)

### Meeting Minutes

*Members Present:* Virginia Brack, Heather Brown, Jerry Knirk (Chair), Seddon Savage, Lisa Withrow

*Members Absent:* Corey Burchman, Jill MacGregor, Richard Morse, Molly Rossignol, Tricia Tilley

*DHHS Staff:* Michael Holt, DPHS Program Administrator

*Note:* In-person quorum not met

Meeting convened at 7:37, after technical difficulties preventing an effective hybrid meeting

### Minutes

Minutes from 9/7/22 meeting were not reviewed/approved due to lack of quorum.

### Lab Testing Standards

Knirk noted that at a past meeting (April 7, 2021) the Board heard a presentation about cannabis lab testing standards in the state.

- Noted that the state rules for lab testing have not been reviewed recently and that they likely need to be updated.
- Suggested that reducing the number and types of testing could reduce costs to ATCs, and thus to patients, without impacting safety.
- It was suggested that the Board could assist with the review and update of the current rules on lab testing. Could the Board help benchmark against other States? As the ATC clinical representative, Burchman might be best suited to lead such effort.
- Sub-group formed to examine the issues, including:
  - Burchman
  - Brown
  - Holt
  - Andrew Nelson, who owns and runs the independent licensed laboratory in NH that tests cannabis and cannabis products for the ATCs.

### Registry Rule (He-C 401) Review

- DPHS-TCP Program Administrator (Holt) presented draft rules.
- Rulemaking implements required statutory changes from 2021 and 2022. *Board discussion in italics.*
  - Adding qualifying medical conditions: insomnia and autism spectrum disorder (HB 89, 2021 session) and opioid use disorder (HB 605, 2021 session) (already implemented). See p.2 of the Written Certification, and pp. 2-3 and 15-16
    - *No discussion.*
  - Adding requirements for certifying medical providers to provide counseling to women of child-bearing age about the risks of cannabis use during pregnancy and while breastfeeding, to adolescents about the risks of cannabis use in

adolescence, and to these patients' parents/guardians if the patients are minors (HB 163, 2021 session). See p.3 of the Written Certification, and pp. 12 and 16 of the rule text.

- *Some discussion, no concerns raised.*
- Adding allowance for providers to issue a written certification for a duration of up to 3 years, and adding requirements for extending a written certification for up to 3 years if previously issued for a shorter duration (SB 162, 2021 session). See p.3 of the Written Certification, pp. 13-14 of the rule text, and the Written Certification Extension form.
  - *Intention is to reduce administrative burdens for certifiers, patients, and DHHS, and in doing so to facilitate access, reduce barriers, and to comply with a 2019 LBA performance audit finding.*
  - *One Board member raised the concern that in the absence of a requirement for re-evaluation at some specified interval, patients could go 3 years without assessment of responses, side effects, other medical issues. This concern was particularly significant with people under 25 who are vulnerable to cannabis-induced brain changes. These patients should have periodic re-evaluation.*
  - *This Board member noted that extending to a 3-year certification furthers lack of parity with other controlled substances which may have limitations of weeks to months on prescription intervals, unit numbers, and/or duration, etc. It was suggested that cannabis should probably have parity with schedule III substances. Schedule laws and rules need review for confirmation.*
  - *This Board member continued, offering a belief that some providers do due diligence, seeing patients at appropriate intervals for evaluation and re-evaluation, and others certify and leave patients on their own without seeing them until certification is again required. This law/rule change could result in patients using cannabis for 3 years without any supervisions or reassessment.*
  - *In response, the program representative noted that this law/rule change allows clinicians to use their clinical judgment to make decisions about the care of their patients consistent with their scope of practice, and that program rules require clinical follow up [He-C 401.06(b)(6)]:*
    - *“A provider issuing a written certification shall: (6) Follow the patient clinically at appropriate intervals at the discretion of the provider to provide follow-up care and treatment to the patient for the patient’s qualifying medical condition including, but not limited to, physical examinations, to determine the health effects of cannabis for treating the patient’s qualifying medical condition or associated symptom for which the written certification was issued”*
  - *The Board chair noted that the 3-year certification is now law and must be implemented. Any additional changes would require new legislation.*



*appointment and receive the results, but the program has a 15 day deadline to approve caregiver cards*

- *The on-line appointment and payment system is a technological barrier to some applicants.*
- *Patients are not required to undergo a background check, and there are no practical reasons for a different standard for their caregivers (there is no “business model” for caregivers).*
- *The law change supports the 2019 LBA performance audit finding to reduce administrative burden for client applications.*
- *The time required for the background check sometimes resulted in potentially tragic delays in care.*
  - *A patient’s wife applied to be a caregiver for her husband, who was unable to use his Registry ID card because he was too ill to travel to a dispensary to purchase cannabis products.*
  - *It took her a month to get a fingerprinting appointment, and then another month for the results to be processed. She received her caregiver Card in October, but her husband had passed away from his illness in September.*
- *There have been no issues of concern raised relative to this change from other sources.*
- *It was commented that this was not a clinical issue and it was not thought to be of interest to the Board.*
  - *In response it was noted that this is a potential public health issue in that background checks might deter persons at higher risk for diversion from becoming care givers.*
  - *A comment noted diversion of therapeutic cannabis can and does occur, aren’t such check reduce the risks?*
  - *The sense of the group was that the benefits of no background checks outweighed any risks.*
- *Removing various requirements related to patients needing to designate or register with one alternative treatment center (ATC) at a time (SB 162, 2021 session) (already implemented)*
  - *No discussion; no concerns raised.*

### Product Strain Availability

- Board heard from all the ATCs about their CBD product offerings, including low-THC/high-CBD products.
- All ATCs reported that such products were available (see on-line menus for details of product offerings).
- It was noted that the availability of these low-THC products with dominance of CBD, CDG, and other cannabinoids, if paired with survey of patient experience (effects, side-effect per episode of use, noting different cannabinoid content) could generate valuable

information on the efficacy of different cannabinoids for different symptoms and conditions.

- Board decided that the product selection was sufficient, and did not need to make a formal recommendation for the ATCs to produce more CBD products.

#### Ongoing Business

- Effectiveness Surveys workgroup did not have an update.
- Epilepsy workgroup did not have an update.

#### Public Comments

- One public member asked about the state's testing standards for lead. Holt responded that the testing standards in the rules need to be reviewed and updated, and said that this was a project that had been identified by the Board for ongoing work and assistance.
- One public member noted the following:
  - The Board need to address challenges of access.
  - Especially for patients who have been using regularly without problems then transitioned to new provider with loss of access
  - Noted that absent better access, people can go to surrounding states to access recreational cannabis which may be less safe.
- One member of the public noted the following:
  - The TCMOB should prioritize the support for the 3-year certification; it has been long delayed
  - The TCOMB should take a formal position on medical home grow.
  - The TCMOB should work to reduce the cost of cannabis, which is prohibitive.
- Other members of the public were disruptive during the meeting, speaking out of turn without being called on, using expletives, and insulting Board members, both in chat and verbally. A sampling:
  - "What qualifies you closed minded people to sit on this Board. There needs to be a complete reform of this disgraceful medical program"
  - "None of you have any position to educate anyone when you're all just spewing nonsense you don't represent patients you represent yourselves and your old ways of thinking."

#### Next Meeting

- Scheduled for November 2, 2022.
- Will be an in-person meeting so that the Board can vote on items.

Meeting adjourned at 7:23