

**THERAPEUTIC USE OF CANNABIS ADVISORY COUNCIL**  
**Friday, September 25, 2015, 1:00 PM**  
**Legislative Office Building, Rooms 205**

**MINUTES**

Members in attendance:

Robert Andelman, MD, NH Board of Medicine  
Lt. John Encarnacao, Department of Safety  
Stuart Glassman, MD, NH Medical Society  
Michael Holt, Department of Health and Human Services (Clerk)  
Jill Hunter, NH Nurse Practitioner Association  
Representative James MacKay (Chair)  
Representative Bill Nelson  
Senator John Reagan  
Andrew Shagoury, New Hampshire Association of Chiefs of Police  
James Vara, Department of Justice

Members absent:

Devon Chaffee, NH Civil Liberties Union  
Peter Gosline, Monadnock Community Hospital  
Collette Horgan, Exeter Hospital  
Robert Duhaime, NH Board of Nursing  
Lisa Kilar, Qualifying Patient  
Ken Neilsen, Public Member  
NH Board of Nursing – vacant

**Call to Order**

Rep. MacKay called the meeting to order at 1:11 p.m.

**Council Membership**

Rep. MacKay informed Council that Governor's office would be seeking the resignation of the qualifying patient member. Qualified individuals interested in the appointment should send a letter of interest with a resume to the Governor's office.

Rep. MacKay announced three new members of the Council: Ken Neilsen, Public Member; Representative Bill Nelson; and Nurse Practitioner Jill Hunter, NH Nurse Practitioner Association.

**Review and Approval of Minutes**

The minutes from the January 9, 2015, meeting were approved by a unanimous vote.

**DHHS Update**

Mary Castelli, DHHS Senior Division Director, Office of Operations Support, and John Martin, Manager, Bureau of Licensing and Certification, outlined program achievements including: selection of three entities to run four ATCs; ATC selection of locations for operations and public input meetings in six of the seven selected communities; proposed rule changes to allow conditional registration certificates and pre-registration of qualifying patients and designated caregivers; finalizing database for ATCs, qualifying patient and designated caregivers; development of all required forms, criminal record check process, inspection process, and the law enforcement protocol.

## Questions/Comments on DHHS Update

- Q. Dr. Glassman asked about the preparedness of NH laboratories for testing given Massachusetts need to grant a waiver of the testing requirements because Massachusetts laboratories are unable to conduct the tests.
- A. Director Castelli explained that the proposed rule change includes testing for pesticides and heavy metals without specifying which pesticides will be tested at Department's option without warning. Director Castelli described her understanding of the Massachusetts levels as being set at a level that were unreachable and/or untestable. Mr. Martin added that the Department worked with a Massachusetts laboratory to create standards when drafting the proposed rule.
- Q. Chief Shagoury asked when the public input meeting was scheduled for Dover.
- A. Mr. Martin indicated that a meeting with Dover city officials, Temescal (ATC), and the Department had been held the day before, and it was anticipated that early next week a meeting date was anticipated to be scheduled.
- Q. Chief Shagoury asked if the ATCs sites would be located in buildings with our tenants, "co-located," and, if so, the risks of the se of CO2 enrichment for fumigation. He further asked about the risks to the first responders.
- A. Director Castelli offered to look into the issue. She explained that the requirement for separate HVAC systems removed the risk of effecting co-located businesses.
- Q. Rep. MacKay asked about the different reaction time with edibles and the risk of using too much.
- A. Director Castelli and Mr. Martin explained that the ATCs will label all products with dosage recommendations and will educate patients on proper use of the products.
- Mr. Holt added that the ATCs will be required to include estimated time of onset on the product label.
- Q. Rep. MacKay asked about the cost at ATCs as opposed to purchasing illegally based on his understanding that in Colorado it is cheaper on the black market.
- A. Director Castelli and Mr. Martin explained that ATCs will be pricing product based on the black market prices to reduce incentives for diversion.
- Dr. Glassman spoke of the New York Times reporter who overdosed and published a story about the incident.
- Q. Chief Shagoury asked about the exclusion of edibles as food under He-C 402.03(1). In his opinion, RSA 143-A:1 defines food in a manner that would include edibles, and he questioned whether the rule was consistent with the law. He also raised the risk of food allergies when labeling is in required.
- A. Mr. Holt agreed that while the rules exempted edibles from the definition of food, he explained that at He-C 402.16(e) the ATCs were required to prepare and handle food consistent with the sanitation requirements contained in He-P 2309.03. Director Castelli explained that a variety of states have handled edibles differently, and NH is not alone in exempting edibles from licensure. While ATCs are not separately licensed as food establishments, they are required to follow proper sanitation procedures. She also explained that the rules require edibles to be labeled with a list of ingredients and all known allergens.
- Q. Rep. MacKay asked about estimated opening for the ATCs, and how the ATCs would obtain the original seeds? He also asked about whether the sales would be all cash transactions
- A. Director Castelli stated the estimated start up would be first quarter of 2016. The Department would not be involved in the initial acquisition of seeds by the ATCs. Director Castelli reported that the majority of the ATCs have formed relationships with banks. Dr. Glassman added that he understood that debit transactions will be possible.

## **Administrative Rules Review**

Mr. Holt, Administrative Rules Coordinator, explained that the proposed rule changes had not been brought to the Advisory Council prior to submission to the Joint Legislative Committee on Administrative Rules (JLCAR), as had been past practice, due to the need to implement the rules as quickly as possible. Mr. Holt summarized the rule changes.

- **Amendments to He-C 401, Patient Registry**

Incorporates changes from HB 476 and SB 22 into the rules. Adding new qualifying conditions; certain changes to registry identification cards, the proposed pre-registration process, prohibits extraction by any process other than water or food based by qualifying patients and designated caregivers, and delays the process of considering qualifying conditions on case by case basis until January 2017.

### **Questions/Comments on He-C 401**

Q. Representative Nelson asked what would happen if a qualifying patient or designated caregiver obtained cannabis on the black market.

A. Director Castelli explained that qualifying patients and designated caregivers remain subject to the criminal code.

Q. Chief Shagoury expressed concern that by not requiring the cannabis to remain in sealed packages at all times until it reaches the qualifying patient, diversion is possible by designated caregiver.

A. Director Castelli indicated that the Department understood the Chief's position on diversion.

Q. Dr. Andelman asked if an initial criminal background check was still required for designated caregivers.

A. Mr. Holt explained that a criminal background check would still be required, and it would be required if the individual's registration lapsed. An individual renewing with a valid registration, however, may file an attestation of no felony convictions.

Q. Dr. Andelman requested more information about water and food based extraction.

A. Director Castelli and Mr. Holt explained that extraction may be done in the home to allow for an individual to make food products with special ingredients and that butter is a common method used in extraction. They explained that the rule was written to explicitly prohibited extraction with any other methods including explosive gases.

Q. Chief Shagoury asked about the timeline in the patient registry process, and the removal of the requirement to send new registry identification cards whenever an alternative treatment center is changed.

A. Director Castelli and Mr. Holt explained that SB 22 removed the ATC number from the registry

Q. A member of the general public asked if a person may go to another ATC if on vacation in another part of the state.

A. Director Castelli explained that the individual would not be able to go to any other ATC, and that it was to ensure a patient did not exceed his/her allowable amount of 2 ounces every 10 days.

- **Amendments to He-C 402, Alternative Treatment Centers**

Creates the conditional registration process for ATCs; implements changes from SB 22 relative to zoning; updates the application process; and aligns cannabis infused products portion of the rule with the changes that were made in the He-C 401 rules.

### **Questions/Comments on He-C 402**

Q. Chief Shagoury asked about the new CIP language and the change in the wording of the school zone requirement.

A. Mr. Holt explained both changes.

Q. Chief Shagoury asked if a designated caregiver would be allowed to manufacture in a school zone.

Representative Nelson asked about the ability of qualifying patients to have cannabis if they were to live within drug-free school zone.

A. Mr. Holt explained that they would be allowed to possess in their homes. Director Castelli explained that possession is prohibited in the buildings and on the grounds of drug-free school zone.

### **Review of Advisory Council Mandate (RSA 126-X:9, II) and Future Steps**

- Rep. MacKay discussed the need for more frequent meetings and recommended the council meet again in two weeks to consider potential legislative changes. Ideas for legislative changes are to be sent to Mr. Holt.
- Dr. Glassman discussed provider education. Some states require providers to receive education in the area before certifying patients, but New Hampshire does not.
- Nurse Practitioner Hunter asked about the ATC use of computers and collection of data on patient reports of the effectiveness of the various strains.
- Chief Shagoury indicated that the Council should focus efforts to educate medical community and suggested a comparison of New Hampshire's law to other states.

### **Alternative Treatment Center (ATC) Presentations**

#### **• Prime Alternative Treatment Centers of NH**

John Glowik, CEO, introduced himself and Brett Sicklick, COO, to the Council. He highlighted the accomplishments of the members of the Board of Directors overseeing the ATCs, and some key executive personnel. Mr. Glowik explained the mission of Prime ATC is to provide pharmaceutical grade product for the residents of New Hampshire.

Q. Attorney Vara asked about the type and nature of education offered by the ATC.

A. Mr. Sicklick explained that the every patient will have a consultation of 30 minutes to 1 hour, as well as ongoing consultations as needed.

Q. Dr. Glassman asked if the ATC would be providing medical advice to patients, and he also asked if there was any medical based evidence to support the recommendations.

A. Mr. Sicklick explained the ATC personnel only recommended strains. He indicated that there was evidence based research and that he would share it with the Council.

- **Sanctuary ATC**

Jason Sidman, CEO, introduced himself and Josh Weaver, CFO, to the Council. Mr. Sidman described the key personnel of the organization. Mr. Weaver explained that he and Mr. Sidman were from a regulatory background and were comfortable operating within the strict regulations of the program.

- **Temescal Wellness**

Brandon Pollock, Vice President, introduced himself to the Council. Mr. Pollock described the members of the Board of the Directors of the organization, and the key executive personnel. Temescal described itself as a pharmaceutical model with alternative delivery models. The ATC will use Patient Treatment Advisors who meet with the patients and help determine the most appropriate treatment.

### **Public Participation**

- Matt Simon, New England Policy Director for the Marijuana Policy Project, sought to bring the patient perspective to the meeting. Mr. Simon identified two issues as important to patients: legal protection (protection from arrest) and legal access to the cannabis. Mr. Simon encouraged the Council to support the House Bill (593) allowing home grow, and the bill to amend the condition by condition provision of the statute such that it would be considered patient by patient. Mr. Simon encouraged home delivery in outlying areas and requested the Council support this option.
- Dennis Acton, patient survivor and advocate, spoke next. He indicated that he had originally sought to become an applicant for an ATC registration in Epping, NH, but has now decided to stay in patient advocacy and offer a resource for patients, caregivers, and providers. Mr. Action reported having a productive meeting with Chief Shagoury.
- Richard Vincent, leader of an MS support group, spoke of his interest in becoming a member of the Council.

The meeting was adjourned at 3:57 p.m.