

Therapeutic Cannabis Medical Oversight Board
October 7, 2020, Remote Meeting (Zoom)
Meeting Minutes

Members Present: Jonathan Ballard, Virginia Brack, Heather Brown, Corey Burchman, Jerry Knirk, Richard Morse, Seddon Savage, Molly Rossignol

Members Absent: Bert Fichman, Cornel Stanciu, Lisa Withrow

DHHS Staff: Michael Holt, DPHS Program Administrator; Tricia Tilley, DPHS Deputy Director

Meeting convened at 5:35 p.m.

Minutes

Meeting minutes from 8/5/20 were approved.

Motion and Second: Not recorded; Vote: 6-0 (Savage abstained; Ballard not yet present)

Practice Act for Cannabis Certification and Care discussion

Holt introduces Lindsey Courtney, Executive Director, NH Office of Professional Licensure and Certification (OPLC), and frames discussion:

- Draft Administrative Rules were sent to the Board over the summer to review the Provider Requirements section.
- Telehealth issues have been coming up since the Governor's emergency order that expanded the scope of telehealth service delivery (superseding the rule's prohibition against telehealth for cannabis certification).
- Questions about cannabis practice supervision and licensing issues. For example:
 - What is the appropriate balance and shared responsibility for best practices between DHHS (administering the Therapeutic Cannabis Program and OPLC (licensing of certifying providers)?
 - Does the state licensing board need to incorporate elements of cannabis practice (certification and follow-up care) into the practice act or into rules?

Lindsey Courtney address the framed issues:

- Some concerns about quality of care around cannabis practice have been coming up from the licensing board perspective.
- Has been discussing these issues with DHHS/TCP and decided it would be helpful to meet with this Board.
- OPLC has oversight for 54 licensing boards including those who can certify for cannabis.
 - There is authority regarding ethics and two practice acts
- Emergency Orders during COVID have permitted emergency licensing in NH of many clinicians from outside of NH:
 - Some seem to be taking advantage of out of state licenses to certify NH patients for cannabis without necessarily doing due diligence.
 - Unclear whether they are meeting the intent of the requirements of the law.

- OPLC currently has no clearly defined way of assessing cannabis practice and thereby holding practitioners accountable for appropriate care.
- OPLC has the authority to institute rules related to prescribing practices.
 - Board comment: Reminder, providers *certify* conditions, they do not *prescribe*
- Board has disciplinary authority over all elements of practice, including cannabis practice:
 - However, there are no OPLC rules related to certifying patients for cannabis
- After case review, by statute, OPLC can instruct DHHS to remove a provider from authorization to certify for cannabis but they would need standard by which to review cases.

Discussion

- Only MDs, APRNs, and PAs can certify for cannabis. Naturopathic physicians cannot certify for cannabis, and interestingly have not expressed interest in a law change.
 - Clarification from Lindsey Courtney: In NH Naturopaths have their own formulary and can prescribe many medications including controlled substances. So they meet the DEA requirement established in law, but are not included as an approved provider type.
- It was noted there seems to be a triad of oversight, but better defined roles and responsibilities are needed:
 - DHHS has a role
 - OPLC may have a role
 - Medical Oversight Board may have a role
- Asked how Board could be helpful, Lindsey Courtney stated that it would be helpful to know what is the standard of care, or best practices, for cannabis certification and management.
 - Noted, best not to have two standards. Since we should be striving for best practices, defining those would be preferred.
 - OPLC does not hold practicing clinicians to a best practice standard, however, but to the community standard of care.
- After discussion, the group agreed that
 - Best practice standards are evolving
 - The Board is in the best position to set standards of care and/or best practices in NH.
 - The Board, in consultation with relevant others, including DHHS staff, will draft current best practices and share these with OPLC
 - The OPLC will then be better able to consider what is needed in terms of rules or other constructs to better assess quality of care.
- Lindsey Courtney was asked to submit her concerns and request to the Board in writing for review and action.
- Holt was asked to resend Provider Requirements section of rule, and copy of law regarding DHHS referral to licensing boards.

2020 Workplan – Therapeutic Cannabis 101 Slide Deck

Board reviewed and discussed slides prepared and distributed prior to meeting.

General comments

- Slide deck, once content is finalized, will need an editorial review for formatting and consistent voice. Both Knirk and the Department volunteered to conduct this review
- Acronyms should be spelled out upon first use
- Links to more detailed documents and resources were encouraged
- Finding a formatting balance between a PowerPoint designed for presentations, and one that will primarily function as a resource document.
 - Does this have to be a PowerPoint at all?
 - Power Point is more versatile, it can double as, or be lightly edited as, a presentation document.
- Use of cannabis leaf in presentation to be reconsidered. While not prohibited (this is a Board document, not a Department document), Board was asked to reconsider implicit messaging of the cannabis leaf image in light of the image not being used by the Department, program, or the ATCs.

Knirk's slides (intro materials)

- Instructions to ATCs about recommendations/instructions needs to be fleshed out to include examples, such as: product types/routes of administration; cannabinoid profile; dosing.
 - Noted that product menus, including cannabinoid profiles, are available on each ATCs' website.
- Savage observed that “cannabis basics” were missing from slide deck outline. Agreed to send repurposed slides for Board review.

Rossingnol's slides (OUD special population)

- Suggestions for reference formatting (first author, year, linked)
- Add clarity that OUD is not currently a qualifying medical condition for cannabis; this is a series of slides for a related special population

Savage's slides (clinical best practices)

- Urine drug screen discussion
 - Range of opinions expressed: opposed to its inclusion; may exclude some providers; appropriate to include to confirm current substance use
 - Agreed to soften language to: “consider”
- Morse asked if this path (creating specific best practices) increases provider liability?
 - Burchman agreed with this concern; suggested adding a statement in the intro slides about a legal liability disclaimer.
 - Is “best practices” too much? This is a question that would then go back to OPLC for review.

- Informed consent discussion
 - Range of opinions expressed, from opposition to support
 - Clarified that this is reasonable, and not a treatment contract/agreement like for some pain treatments.
 - Holt agreed to share link to NH Medical Society's current sample informed consent document
- Holt asked that specific mention of using the NH licensed ATCs for the source of cannabis, not a recreational/gray/black market, be added

Member Updates

- Rossignol raised the question of Board membership and the current Board vacancies. Asked if there was a barrier to reshuffling clinical assignments. Ballard and Holt said no barrier. Rossignol suggested reassigning roles and nominated Jill McGregor, APRN, to represent family/internal medicine. She agreed to send contact information to Chair and Ballard for Commissioner consideration.

Next meeting November 4, 2020.

Meeting adjourned at 7:41 p.m.

All in favor, by voice vote