

THERAPEUTIC USE OF CANNABIS ADVISORY COUNCIL
Friday, October 21, 2016, 1:00 PM
Legislative Office Building, Room 205

MINUTES

Members in attendance:

Representative James MacKay (Chair)
Michael Holt, Department of Health and Human Services (Clerk)
Jill Hunter, APRN, NH Nurse Practitioner Association
Richard Vincent, Qualifying Patient
Senator John Reagan, NH Senate Member
Lt. John Encarnacao, Department of Safety

Members absent:

Representative Bill Nelson, House of Representatives Member
Devon Chaffee, NH Civil Liberties Union
Burt Dibble, MD, NH Board of Nursing
Stuart Glassman, MD, NH Medical Society
Barbara Keshen, Public Member
Andrew Shagoury, NH Association of Chiefs of Police
NH Board of Nursing Member (vacant)
NH Attorney General's Office Member (vacant)
Community Hospital Member (vacant)
NH Hospital Member (vacant)

Call to Order

Representative James MacKay called the meeting to order at 1:06 p.m.

DHHS Update

Rep. MacKay summarized that DHHS has been criticized for the slowness of processing the qualifying patient (QP) applications and issuing registry ID cards.

Michael Holt, Department of Health and Human Services, provided Therapeutic Cannabis Program (TCP) updates:

- Program Status.
 - There were 1,339 registered QPs as of the last council meeting (9/23/16), and currently there are 1,735 QPs. Presently there is no backlog of approved applications to be processed. Beginning next week, the TCP will be in compliance with the statutory mandate of 20 days to issue a registry card to a QP with a completed and approved application.
- Rulemaking.
 - DHHS has entered rulemaking on He-C 402 regarding proposed changes to the TCP's fee structure for alternative treatment centers (ATCs).
 - The rulemaking notice was published in the October 20 *Rulemaking Register*.
 - A public hearing is scheduled for November 10, 2016 at DHHS Brown Auditorium, 11:00am.
 - Rule is targeted for the December 15th JLCAR meeting, with a January 1, 2017 target effective date.
- Rulemaking Elements.
 - The ATC fee structure will change from a flat registration fee to a methodology based on actual TCP expenses.

- The ATC registration period will now align with the state fiscal year (SFY). This requires detailed rulemaking which includes converting current registration certificates to a 6 month certificate (with appropriate credits based on duration of current certificates) in order to have the annual certificate issued at the start of the SFY on July 1.
- This removes the tiered fee structure (Geographic Area 4, in the North Country, had a lower flat annual fee). Originally, it was thought that an incentive was needed to serve QPs in this part of NH. However, the number of QPs served in the North Country by Sanctuary ATC has shown that no incentive was needed.
- TCP costs will be proportionally allocated between the ATC based on the amount of cannabis sold at each ATC.
- Fees.
 - Current expenses plus projected expenses for the periods through 6/30/17 (minus current and projected revenue for the same periods and minus the registration credit already paid by the ATC) are \$360,084.
 - Projected expenses for the SFY beginning on 7/1/17 (minus projected Department revenues for the same period) are \$202,932.
 - Based on current projections, the flat fee model (\$80/80/80/40K=\$280,000) would have exceeded the amount of revenue needed for TCP operational costs.

Questions

- Richard Naya, Executive Director of NH NORML. Would QPs only have a 6 month window with this change?
 - Mr. Holt responded this rule change has nothing to do with the QPs, it is for the ATCs.
- Mr. Naya. How will the calculation be based on cannabis sold?
 - Mr. Holt responded the ATCs track the amount of cannabis sold and the proportional fees will be based on the amount of cannabis sold.
- Public attendee. Is this a floating tax to run the program based on what is sold?
 - Mr. Holt responded that the fee is not a tax. It is a self-funded program, and the fees are based on the Department's cost to operate the program.
 - Mr. Holt offered that further comments can be submitted during the rulemaking public comment period.
 - Senator Reagan commented that the ATC are responsible for paying 100 percent of the costs to operate the program.
 - Mr. Holt explained again that this model will result in the ATCs being charged less than the original fee schedule.
 - Representative MacKay added that if this was a tax it would never pass.
- Public attendee. Does DHHS wait to the end of the year to check ATCs profits?
 - Mr. Holt responded that fees will be billed prospectively, based on TCP cost projections and ATC past sales. If the program cost projections are different from the actual costs, or the actual ATC sales are different from the projections, then the differences will be reconciled.
 - The public attendee went on to ask what if there is an over charge, will an ATC get a "break"?
 - Mr. Holt responded differences between projections and actuals will be reconciled.
 - Mr. Naya questioned the ATCs getting a "break" and if there was surplus money could that be used for other purposes such as additional services to QPs.
 - Mr. Holt responded it is not a "break" in that sense, but rather that the projections/actuals model may result in a credit or debit situation to be reconciled.

Alternative Treatment Center Update

Sanctuary ATC, Plymouth, NH. Presented by Josh Weaver, CFO, and Dr. David Syrek, Medical Director.

Mr. Weaver's presentation:

- Sanctuary ATC's dispensary location is in Plymouth, NH, which serves Geographic Area 4, North Country. There is a second building next to the dispensary which is used for educational purposes.
- The dispensary operates Wednesday, Friday, Saturday, and Sunday, and currently serves 525 patients, with an average of 20 patients a day.
- Sanctuary currently offers 17 strains of cannabis to select from with different cannabinoid profiles to assist in meeting a variety of therapeutic needs.
- Sanctuary offers a Patient Affordability Plan (PAP) which provides a financial discount to QPs who are eligible.
- Sanctuary ATC's cultivation location is in Rochester, NH. It is an energy efficient operation operating on hydroelectric power. It was certified to operate in January 2016 by the Department-TCP. Currently it has the only commercial kitchen in the state. There is a wide variety of cannabis infused products (CIPs) that are made at the cultivation location, including several types of edibles and concentrates, in addition to flowers.
- An annual report has been submitted to DHHS and part of this report documents a 95% effectiveness rate for QPs.

Dr. Syrek's presentation:

- He is a board certified medical pathologist.
- His role at the dispensary is to offer and provide consultations to all QPs (currently, 50% of QPs choose to meet with him), and ensure that QPs have a positive experience and that the therapeutic cannabis will increase the QP's quality of life.
- He works closely with QPs addicted to opiates. He assists them to slowly and safely wean off opiates (50-70% success rate) with positive outcomes, therefore, resulting in increasing the quality of life.
- Several scenarios were shared regarding QPs medical conditions and symptoms and how therapeutic cannabis was able to help increase the quality of their lives.
- Several other medical conditions were cited that would benefit from therapeutic cannabis but are not currently approved as qualifying medical conditions in NH. Those include chronic opiate usage if taking for 3-4 months; post-traumatic stress disorder (PTSD), severe arthritis, fibromyalgia, and chronic pain. He encourages doing anything possible to help expedite the expansion of the qualifying medical conditions.
- Less than 5% of medical providers are involved in the QPs care plan of therapeutic cannabis.
- A question was asked of Dr. Syrek what the Council members can do to help.
 - Dr. Syrek responded that medical providers do not understand the endocannabinoid system and this makes it an uphill battle. He would be willing to talk and educate a medical provider if a release is signed by a QP. He also stated we need to continue to work together, ATCs, the Program and council. Representative MacKay reiterated the importance of this and the initiative from the ATCs.
- The ATC accepts debit cards and cash for products purchased at the dispensary.
- They have a banking relationship with Century Bank in Massachusetts and the cost for them to have such an account is high.
- Sanctuary has a very positive working relationship with the Department.

Comments on Sanctuary's Presentation

- Rep. MacKay commented there are various positions on using therapeutic cannabis to treat medical conditions and the need for more research to better support the effectiveness of therapeutic cannabis. He is interested in knowing if there is more scientific information available on decreasing opiate usage.
 - Dr. Syrek responded that the research he has seen in other countries focuses on cannabinoid profiles. Dr. Syrek will send the information to the Council.
- Jill Hunter, APRN, commented on the importance of keeping data in order to educate and convince the medical providers that therapeutic cannabis is a viable form of treatment. At present it is a "hard sell." Currently cannabis is classified as a "schedule one drug" so it is a slow process and uphill battle, taking 3 years to have a drug schedule changed.

- Mr. Holt offered that this is the first year for TCP annual reporting in which data will be reported.
- Mr. Naya shared information about the importance of the endocannabinoid system for well-being, is glad the Program is moving forward, looks forward to the expansion of the Program, including possible legalization, cautioned on the need to be prepared as transitions happen in New England, looked forward to moving forward together.
 - Rep. MacKay responded by reminding the Council and public attendees that the Council’s responsibility is therapeutic cannabis, not recreational.
- Richard Vincent, qualifying patient member, shared that, prior to the opening of Sanctuary’s cultivation and dispensary locations, he had an opportunity to visit both facilities. He observed a very high level of security. As a QP, he has had positive results weaning off medications as the therapeutic cannabis is improving his health. There are other individuals in his multiple sclerosis group that have used or may use therapeutic cannabis.

General Discussion on Potential Legislation

Rep. MacKay stated that legislation has been informed by two different points of view:

1. Wait and see how therapeutic cannabis works.
2. Add conditions without the benefit of effectiveness data.

He offered that anything added should be based on “science” and that if anyone has thoughts on this, now is a good time. He suggested that an educational presentation for the legislature would be helpful.

Mr. Holt offered that the current law is perhaps unnecessarily restrictive regarding the qualifying condition of “Hepatitis C currently receiving antiviral treatment.” It does not allow for individuals who may have used such treatment in the past and stopped because it did not work, or for whom such treatment is contraindicated.

Erica Golter, Executive Director of NH NORML, explained the importance of the endocannabinoid system. She stated there is a need to educate and teach medical providers about the endocannabinoid system as this is not an area they understand very well. She would also like to have chronic pain be listed as a qualifying medical condition.

Representative Joseph LaChance stated:

- There are 10 bills he is currently trying to move forward for the state’s therapeutic cannabis program, including adding the following qualifying medical conditions: PTSD, fibromyalgia, opioid addiction, and chronic pain.
- He is currently a QP at Sanctuary ATC.
- He would like to have a satellite site added further north in the North Country.
 - Rep. MacKay thanked him for all of his hard work with the Program.

Public Comments

A public attendee asked about the process for TCP registry ID card renewal.

- Mr. Holt responded by emphasizing the importance of not allowing a registry ID card to lapse and provided an overview of the renewal process.

A public attendee shared a testimonial. She shared her personal story of having many serious health issues since she was a teenager, the large number of medications she was prescribed, and the negative implications the health issues and medications have had on her life. Her doctor will not provide her with a Written Certification for the Program despite her being eligible. However, she no longer uses the prescribed medications but treats herself with cannabis. The quality of her life has improved dramatically and has added years to her life. She hopes others will come forward with testimonials to emphasize the way the law is written does not include all those who may benefit from the use of cannabis by improving the quality of life.

- Rep. MacKay commented that police are going after dealers, not individuals like her. He went on to point out the importance of changes with legislation and there is much work to be done, including balancing all of the factors. He was impressed with the State Police in their role.

A public attendee shared a testimonial and thanked the Council for the work being done. She has multiple medical conditions that would qualify her for the Program. However, her medical provider at Concord Hospital will only provide a Written Certification for the Program if a patient has stage four cancer. She has many allergies to many medications. Her goal is to be pain free. Her medical provider referred her to Dartmouth Hitchcock Clinic where she attends the pain clinic. It takes an hour of travel each way. Her medical provider oversees this process. However, the medication they want her on does not allow her to function. She is now waiting for her 3-month provider-patient relationship to be completed in order to move forward with the application process for the Program. She suggested that the Board of Directors at hospitals need to be educated about the Program and look at the whole person.

A public attendee commented that, in the state of Washington, they have established laws similar to DUI laws and have set the impaired standard higher than the therapeutic level.

Rep. MacKay reiterated that having an educational event with a scientific basis would be beneficial.

Meeting Adjourned

Meeting adjourned at 2:46 p.m.