

THERAPEUTIC USE OF CANNABIS ADVISORY COUNCIL
MEETING MINUTES
October 24, 2013

The Therapeutic Use of Cannabis Advisory Council met at 2:00 p.m. in Rooms 205-207 of the Legislative Office Building.

Members in attendance were as follows:

Representative James R. MacKay (Chair)
Representative Don "Ted" Wright
Senator Jeff Woodburn
Michael Holt, NH Department of Health and Human Services (Clerk)
Robert Andelman, MD, NH State Board of Medicine
Lieutenant John Encarnacao, NH Department of Safety
Devon Chaffee, Esquire, NH Civil Liberties Union
Stuart Glassman, MD, NH Medical Society
Kelly DeFeo, APRN, NH Nurse Practitioner Assoc.
Andrew Shagoury, Public Member
Colette Horgan, a NH Hospital Representative
James Vara, NH Dept of Justice

Members absent were as follows:

Peter Gosline
Lisa Kilar

Representative MacKay brought hearing to order at 2:07.

Review and approval of minutes

The minutes from the September 26th organizational meeting were approved. Motion by Dr. Andelman and seconded by Representative Wright.

Housekeeping discussion items

Posting of Council Materials:

Representative MacKay brought up posting of documents to the public such as minutes, indicating that posting on the General Court and DHHS websites should meet RSA 91-A, the Right to Know law. Mr. Holt said DHHS can post public materials on the DHHS website and can work with the General Court to post public materials on their website.

e-Studio:

Mr. Holt spoke about using this web-based document sharing application. DHHS can set up capacity to send out invites so that all council members have access to Advisory Council documents. Chief Shagoury asked why wouldn't all documents be public? Mr. Holt explained this application would apply to all documents, including working documents. Minutes and such would be official and made public.

Overview of administrative rulemaking process

Mr. Holt presented this topic. The Advisory Council will serve an advisory role in rulemaking. Rules need to follow statutory outline. There may be other opinions about policy or what should be in rule. Commissioner would like to move quickly on rules in order to have things like fees in place so the program can support itself. Mr. Holt distributed and described a summary of the procedure for adoption of rules, including fiscal impact statement, notice of rulemaking, public hearing and comment period, final proposal, JLCAR, and adoption. Rules take at least 3 months once filed. Rep McKay said that rules have to be in line with the statute. Once they are passed they have the force of law. Mr. Holt said the

cannabis program is very rule dependent for things like registry cards so it is important to get rules through in a timely manner.

Mr. Holt distributed the DHHS timeline for the rules, indicating that these schedules are aggressive and subject to change. Patient registry rules would need to be entered into rulemaking by February 2014 to make the May 2014 JLCAR meeting. DHHS intends to circulate those draft rules to the council at its January 2014 meeting so the council can appropriately comment.

The second set of rules, for Alternative Treatment Centers (ATCs), have an 18-month deadline (from passage of HB 573) to promulgate. DHHS needs to move up the rulemaking timeline so that the 18-month deadline (from passage of HB 573) for issuing certifications to ATCs can be met. DHHS' goal is to enter rulemaking by June 2014 to make the August JLCAR meeting. Rules would come to the council in May 2014. Rep MacKay said that DHHS has a team that meets frequently regarding implementation. Attorney Chaffee thanked the Department for their work on the timeline and setting more aggressive dates.

Overview of therapeutic cannabis program diagram.

Distributed to the committee and presented by Mr. Holt.

Rep. MacKay asked about conviction history for the caregiver. The law says that caregivers cannot be convicted felons. There are no criminal background requirements for patients, but ATC agents have to have background checks. DHHS will have to report on patient measures without any patient identifiers. Database will track ATC information.

DHHS Health Facilities Administration will be supporting the program because of expertise with licensing. Application to become an ATC is through a competitive bidding process. Four are allowed and awarded to highest scores. There are statutory requirements on weighting application. Two have to be licensed by January 2015. There are also monthly reports to ATCs from DHHS and real time reporting requirements.

Rep MacKay noted that there is a lot of money flowing through ATCs. Banks may not approve them because they are not meeting federal law and this could be a major impediment. He said that the Council should ask the Banking Commissioner to weigh in on this issue. Dr. Glassman said that is the case in Denver. They can't have bank accounts, etc. Rep. Wright said that Bank of America is starting to work with Washington State to offer accounts to cannabis dispensaries. There also could be barriers with insurance companies as well.

Dr. Andleman asked about DHHS software. Mr. Holt said they don't know what they will be using yet but they are looking into it.

Rep. MacKay asked about the patient-provider relationship. Law requires that the patient needs a qualifying condition and a symptom, which are established by law. The DHHS Commissioner has authority to approve other qualifying conditions not included in the law, and issue a registry card, on a case by case basis. There was discussion regarding physician certification. There are standards from other states and Mr. Holt asked for those to be shared with the Department and the Advisory Council.

Senator Woodburn asked about data collection. The council will discuss that.

Dr. Andelman said that if the rules allows for a certain condition, many people will claim that condition. Mr. Holt said that the Governor indicated that a reason for her signing the bill was that it was one of the most restrictive laws of its kind. Therefore the legislative intent must be honored.

Legislative update

LSR 14-2652, which the Advisory Council endorsed at its October 2013 meeting, will be sponsored by Senator Reagan. The bill will (1) Amend RSA 126-X:4, III, to address the a timing issue of the Department's required 15-day action on an application received from a designated caregiver to make it also conditioned upon receipt of the applicant's criminal history records check results; and (2) repeal RSA 126-X:7, VI, to remove the confidentiality restrictions regarding the location of the ATCs due to necessary public disclosure for municipal planning and zoning and other public vetting purposes consistent with other language within the same section of the legislation.

Representative Wright's LSR, 14-2414, will include a seat for a representative of the Police Chiefs Association. Rep. Wright moved for approval to endorse LSR 14-2414, seconded by Senator Woodburn. Chief Shagoury abstained. All others approved. Rep. MacKay expressed desire to avoid more controversial legislation at this time.

NCSL Discussion

Rep MacKay thought the National Council of State Legislature would be a valuable resource and could provide technical assistance to the Advisory Council on performance metrics and outcome measurements, as well as best practices from other states. Rep. MacKay will work to get someone from NCLS to work with the Advisory Council.

Attorney Chafee would like an opportunity to hear from other states who have passed the legislation, especially NH's neighbors.

Initial Advisory Council Report

A Report is due Jan 1st 2014. Mr Holt will compose a draft report and discuss at December meeting. The report goes to HHS oversight, the Department, the Board of Nursing and the Board of Medicine.

Chief Shagoury requested that minutes and other documents be made available to the Advisory Council prior to each Advisory Council meeting.

Next Meeting

Next meeting is December 19, 2013, at 2:00 p.m. [location to be determined].

Public Input

Erica Golter, marketing director from MMJ Evolution, asked to speak to the council. She has studied cannabis last 2 years and is trying to establish a NH charter for NORML. She presented various parts of the law (RSA 126-X) that she believed needed clarification. She was asked to provide written documentation of her presentation, and she agreed.

Rep MacKay adjourned the meeting at 4:10 p.m.