

DHHS Therapeutic Cannabis Medical Oversight Board Meeting  
November 13, 2019, DHHS Offices, 29 Hazen Drive  
Meeting Minutes

*Members Present:* Jonathan Ballard, Virginia Brack, Heather Brown, Jerry Knirk, Molly Rossignol, Seddon Savage, Cornel Stanciu, Lisa Withrow

*Members Absent:* Corey Burchman, David Conway, Bert Fichman, Richard Morse, Dennis Thapa

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

Meeting convened at 5:42 p.m.

### Board Membership

Corey Burchman was appointed by the DHHS Commissioner to be a Board member, filling the alternative treatment center (ATC) clinical representative slot (Prime ATC). All slots are now filled: there are no further openings for Board members.

### Minutes

Meeting minutes from 9/4/19 and 10/9/19 were accepted, with one typographical edit.

### Chair Selection

Board had agreed to revisit chair leadership after six meetings, once the Board was up and running. Jonathan Ballard can no longer continue to serve as chair due to time limitations, but agreed to serve as chair for the December meeting.

It was suggested that the vote for a new chair be postponed until there were fewer absences.

*Motion:* Seddon Savage moved that Jerry Knirk be nominated as Board chair for a one-year term to begin January 2020.

*Discussion:* (1) There are no term limits set for Board membership or for chairperson. The Board expressed a plan to revisit chairperson status on an annual basis. (2) Determined that there was no conflict with Jerry serving as chair and as the Board's legislative liaison.

*Second:* Molly Rossignol.

*Vote:* 8-0 (unanimous).

Jerry Knirk is currently serving as Alternate Chair, and therefore a new alternate is needed. Heather Brown volunteered to be Alternate Chair. Jerry Knirk moved; Jenny Brack seconded; Vote to approve 8-0 (unanimous).

### Qualifying Medical Condition Discussion

#### *Legislative Update*

- Jerry Knirk provided an update. He presented his report to the House Health and Human Services & Elderly Affairs (HHSEA) Committee that is considering cannabis indications (retained bills from 2019 session). Report was distributed to Board.

- *HB 461*. HHS&EA Committee accepted the Board’s recommendation and removed anxiety and Lyme disease from HB 461. They passed (17–4) a revised version of the bill with moderate to severe insomnia accepted as a qualifying symptom.
- *HB 366*. HHS&EA Committee did not accept the Board’s recommendation not to add opioid use disorder (OUD) as a qualifying medical condition. They passed (14–7) a revised version of the bill, which paralleled the motion that the Board had defeated on October 9 (4 yes, 6 no).
  - It was explained that the Committee did this with the understanding that the Board may wish to revisit the issue, and this action allows the issue to stay alive for further discussion in the Legislature with further input from the Board.
- It was explained that both bills, if passed by the full House, will have a full public hearing in the Senate.

### *Recommendation Reports*

Question was posed: Should the draft recommendation reports prepared by Board members for discussion on the various cannabis indications be made public?

- They would be presented as work products of individuals for the purpose of discussion of the topic by the Board, not for the purpose of scientific publication.
- As some members did not agree with their content, it was asked that they not be framed as documents developed and approved by the Board; and the Board agreed.
- DHHS will help with formatting and editing (for consistency).
- It was suggested that these reports could be included as appendices to the Board’s annual report; and the Board agreed.
- Cornel Stanciu moved, and Lisa Withrow seconded, that their reports (anxiety and Lyme, respectively) be made public. Unanimously approved (8–0).
  - The reports on OUD and insomnia were already voted to be made public.

### *Senate Bill 175*

- SB 175 was retained by the Senate Health and Human Services (HHS) Committee from the last session. The bill proposed to remove all qualifying medical conditions and give providers broad discretion in using cannabis for any indication that they choose. The HHS Committee asked the Board to review, discuss, and make a recommendation if possible.
- Some legislators have voiced that the current arrangement amounts to the Legislature interfering with the practice of medicine.
- It was suggested that it might make some sense to create training and certifying requirements for clinicians and then allow those participating providers to certify patients for cannabis as they believe appropriate.
  - It was noted that this is not something that providers are trained for and most providers do not have the knowledge base to make decisions absent guidance.
  - Other states, Massachusetts included, have a list of qualifying medical conditions, followed by a “catch-all clause,” which makes cannabis available for any indication that a provider deems appropriate:

- The Senate HHS Committee is considering something similar, and had asked if the Board would review and provide an opinion on an amended version of SB 175, which would keep all the current qualifying conditions and add a broad discretion catch-all.
  - It was noted that a requirement to register cannabis providers would change the nature of the provider-patient relationship in NH:
    - Currently there are approximately 1100 providers in NH who have certified over 8800 patients. Most providers have certified between 1 and 3 patients.
    - In Massachusetts, and in other states, providers must register as cannabis providers, and this has resulted in a limited number of providers serving 10s of thousands of patients.
- Many felt that the proposed bill language would change the nature of certification: Providers would no longer be certifying a condition, but making a judgement that cannabis is indicated for the patients, implicitly making a recommendation, with all the responsibilities assumed by such.
- An educational requirement for certifying providers was further discussed.
  - Many felt it should happen because certifying providers should know more about cannabis.
  - If training were required, it was noted that many providers would not take the training, and would then not certify their patients.
  - Some felt it would be a barrier to access the program as currently most providers typically certify 1 to 3 patients and probably would not go through training for this small number of people.
- Motion by Jerry Knirk. Second by Jonathan Ballard:
  - “The majority of the Therapeutic Cannabis Medical Oversight Board believes that the knowledge of the general provider community about therapeutic cannabis at this time is insufficient to justify this change [proposed by SB 175].”
  - Vote: 6 in favor; 2 opposed.

### Annual Report

- RSA 126-X:10, VI, requires the Board submit an annual report to the president of the senate, the speaker of the house of representatives, the oversight committee on health and human services established under RSA 126-A:13, the board of medicine, the board of nursing, and the therapeutic use of cannabis advisory council established in RSA 126-X:9.
- Discussion on process and content.
- The Board agreed that:
  - Jerry Knirk would draft a report, in collaboration with DHHS staff.
  - The report would contain the condition recommendation reports as appendices.
  - The draft report would be sent to Board members in advance of the 12/11 meeting, to be reviewed, and then finalized with input from the whole Board at the December meeting.

## DHHS Update

### *Vaping-Related Lung Injury*

- The federal investigation, in collaboration with individual states, into the recent incidents of vaping-related lung injury continues. The CDC has identified Vitamin E acetate as a likely culprit in what is causing this injury. Recent findings have shown that this chemical is presenting in lung fluid of all those affected. The CDC has not concluded that this is the cause, or the only cause, but there is strong evidence for it.
- It was noted that not permitting cannabis oil to be available through regulated dispensaries in the state (products of which are tested and known to not contain added Vitamin E acetate) could drive use underground and lead to use of untested and more dangerous products.
- The CDC recommends not vaping any products that contain THC, and this notice (DHHS Fact Sheet) is available at all the ATC dispensaries. However, it is known that many patients choose to continue using THC vapes due to preference and efficacy.

### *DHHS Therapeutic Cannabis Program Update*

- Program updates are being rolled out to comply with law changes effective November 18 (SB 88):
  - Photo requirement removed. All Registry ID Cards issued starting on 11/18 will not have a photo of the patient/caregiver's face. Photo ID is still required at the ATCs.
  - Requirement for provider-patient relationship is maintained, but the law removes the requirement that that relationship be a minimum of 3 months.
- The Board of Medicine and Board of Nursing will be notifying their members of these changes.
- Updated application forms and information sheets will be posted on the program's website.

## Member Updates

### *Report on a Dartmouth-Hitchcock staff visit to Temescal Wellness ATC in Lebanon*

- Board member found the ATC staff to be professional, knowledgeable, and committed to work for the benefit of their clients
- Two issues identified:
  - ATC noted that their CBD is not derived from hemp, and therefore, their CBD-rich products have levels of THC above the Federal designation of 0.3% THC for "CBD only" products.
    - ATC clients report that CBD products available at the ATC are more effective than over-the-counter CBD products and they believe this is due to the presence of THC and/or other cannabinoids and/or terpenes.
  - ATC stated their understanding that, by rule, they must honor provider recommendations with respect to dispensing cannabis products (eg, route of administration, cannabinoids, potency, etc.), but they believe that, once

certified, patients have a right to select other products if the initial recommendation is not effective.

- They get very few recommendations
- They noted patients are usually grateful for and want to follow their provider's recommendations.
- They do not routinely get releases to speak with certifying providers and do not have a routine mechanism for communication to discuss recommendations.

### Public Comments

Psychologist from Newbury.

- Has educated herself, has a certificate, now helps to guide her patients in their use of cannabis.
- Has found cannabis to be helpful for OUD and PTSD. Provided as a resource a doctor in Maine who has helped "thousands of people" with OUD (ie, Dr. Dustin Sulak).
- Suggested there should be regulations on the types of vape pens available for sale, as some designs are harmful.
- She offered to use her knowledge to benefit patients, counselors, the Board, and others.

Representative for Americans for Safe Access.

- Feels PTSD is definitely helped by cannabis based on his experience and that of others.
- Believes cannabis is an exit drug for OUD.
- Provided as a resource a doctor in Massachusetts.
- Expressed concern about the lack of education resources for providers.
- Encouraged the Board to seek information from the Americans for Safe Access organization, saying it provides excellent education materials:
  - The group is based in Washington, DC, and includes many leading researchers and clinicians.
- Informed the Board that the September issue of AARP supports the use of cannabis for therapeutic purposes.

Prime ATC Administrator.

- Responded to report that Temescal Wellness ATC views provider recommendations as a starting place for therapy:
  - Noted that it is rare for providers to make recommendations, and when they do it is often for CBD-only or no combustibles.
  - Prime ATC always complies with the provider's recommendations and does not permit variation based on lack of efficacy.
- Offered that the Society of Cannabis Clinicians provides excellent educational courses and materials, including CME credits. They are in depth and lead by researchers. Seconded the recommendation of Dr. Sulak's as a resource.

- Emphasized that cannabis is very available, and unless it is sourced through a regulated facility, cannabis is unregulated.
  - Denying people certification and restricting their access to regulated medical/therapeutic programs has the effect of denying them access to pure, tested, regulated, and labelled products and moving them to the black market:
    - NH ATCs generally care about their patients and want to help
    - The black market is about profit

#### Next Meeting

- Next meeting is currently scheduled for December 11<sup>th</sup>. Due to members absent and current member conflicts with that date, it was decided to poll members for availability and preference. Proposed alternate date: or December 4<sup>th</sup>. DHHS staff to poll members
- Meetings will be cancelled (or possibly Zoomed) for snow, with one-day notice.
- January 8<sup>th</sup> will be the first meeting in 2020.