

**THERAPEUTIC USE OF CANNABIS ADVISORY COUNCIL**  
**Friday, November 20th, 2015, 1:00 PM**  
**Legislative Office Building, Rooms 205**

**MINUTES**

Members in attendance:

Robert Andelman, MD, NH Board of Medicine  
Devon Chaffee, NH Civil Liberties Union  
Stuart Glassman, MD, NH Medical Society  
Michael Holt, Department of Health and Human Services (Clerk)  
Collette Horgan, Exeter Hospital  
Jill Hunter, NH Nurse Practitioner Association  
Barbara Keshen, Esquire  
Representative James MacKay (Chair)  
Representative Bill Nelson, House of Representatives Member  
James Vara, Department of Justice  
Richard Vincent, Qualifying Patient

Members absent:

Lt. John Encarnacao, Department of Safety  
Peter Gosline, Monadnock Community Hospital  
Senator John Reagan  
Andrew Shagoury, New Hampshire Association of Chiefs of Police

**Call to Order**

Rep. MacKay called the meeting to order 1:07 p.m.

**Council Membership**

Rep. MacKay welcomed new member Barbara Keshen, Esquire (public member).

**Review and Approval of Minutes**

Minutes from the September 25<sup>th</sup> and October 9<sup>th</sup> meetings 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:

- Completion of public input meetings with the last meeting in Dover on October 26, 2015. The City of Dover has also provided zoning approval to the dispensary that will be located in that city.
- JLCAR approved the requested rule changes including:
  - pre-registration for qualifying patients and designated caregivers;
  - testing protocol for the cannabis; and
  - the conditional registrations for cultivation sites.
- The Program hired two individuals. One will be running the Patient/Caregiver Registry, and the other was hired for the inspections of the ATCs.
- On October 30, 2015, the Department released on its website:
  - application forms for qualifying patients and designated caregivers;

- other relevant forms for completing the applications; and
- information sheets for qualifying patients, designated caregivers, and medical providers.
- On November 2, 2015, the Department began receiving applications from potentially qualifying patients and designated caregivers. To date, 23 applications have been received. 22 from qualifying patients, and one from a designated caregiver.
- Since putting the applications on the website, the Department has received over 240 phone calls. The single most common issue has been a request for assistance in locating medical providers willing to complete written certifications. The Department has informed the callers that it does not have a list of providers. At least one of the ATCs indicated that it has received similar calls.
- The entities are aware that a conditional approval for the cultivation site is possible when the entity has met certain conditions. The Department is finalizing the inspection process to be prepared for the inspections.
- A law enforcement communication plan has been drafted and shared with law enforcement and the ACLU.
- A bill has been introduced this session to:
  - allow medical providers from adjoining states to issue certifications;
  - allow the criminal records checks (designated caregivers and ATC potential employees/volunteers) to show only that there is or is not a felony conviction instead of releasing the actual record;
  - add an exemption for requests from law enforcement to 91-A; and
  - remove limits on the number of cannabis plants for ATCs.

### **Questions/Comments on DHHS Update**

Rep. Mackay thanked Senator Reagan for putting in the legislation again this session.

Q. Senator Reagan asked if there were any plants growing at the time of the meeting.

A. Director Castelli explained that there were not at this point. The Department was waiting for entities to have a location ready for inspection. Mr. Martin noted that one of the entities had indicated that it was anticipating that it would be ready for inspection as early as the first week of December.

Q. Senator Reagan clarified that it would be 90 days after approval for plants to be grown.

A. Director Castelli agreed that it would be 3 to 4 months.

Attorney Chaffee noted her appreciation for the Department's report and diligent efforts in working the legislature and entities setting up the treatment centers to overcome obstacles.

### **General Discussion on Outcome Measurements**

Rep. MacKay introduced the topic of outcome measurements and invited Director Castelli to offer the Department's position on the issue.

Director Castelli explained that the Department is interested in working with members of the Council and the public to develop a process for measuring outcomes and collecting data in order to advance knowledge.

Dr. Glassman indicated that the Medical Society is interested in the patient outcome aspect as well as the broader societal implications.

Director Castelli noted that a public health student is interested in working on the issue as a project.

Q. Attorney Chaffee asked if the ATCs would be involved in the process.

A. Director Castelli confirmed that they would be involved in the data collection. Dr. Glassman noted that the ATCs all have physicians involved at some level. Mr. Holt agreed that involvement of the ATCs in the development of the tool would be critical for standardization.

Rep. MacKay introduced Seddon Savage, M.D., for a discussion on measuring outcomes.

Dr. Savage: The need for data on effects of marijuana (positive and negative) exists because there are no existing longitudinal studies. Such data can be used to improve the system, limit harm, and advance the understanding of marijuana. Dr. Savage reviewed a sample survey with the Council.

- Questions to be asked: What are patients using it for? Are patients finding it helpful? Are patients able to reduce the use of other medications or increasing the use of other medications?
- How to collect data: Initial health report: why using, how treated in past, co-occurring diagnosis, past use of marijuana, allergies, and trauma experience. 10 to 12 questions total. On quarterly basis, ask about effectiveness: changes in use, unscheduled ER and urgent care visits, changes in medication use.
- Funding would be possible through different sources because this is a topic of current interest.

### **Questions/Comments on Outcome Measurements**

Q. Mr. Holt asked about value of having surveys completed at the provider level.

A. Dr. Savage agreed that the information would likely be more accurate, but noted it would be completed less frequently.

Q. APRN Hunter stated her overall approval of the survey, while querying if there should be a question added about the individual's functional status. She noted that in her experience it is a better measure because a patient reluctant to admit having pain relief, out of fear that his/her pain medications will be reduced, will discuss improvements in the ability to perform specific activities.

A. Dr. Savage agreed that a question on functional status should be added. She encouraged the Council, if it was interested in moving forward to consider forming a subgroup to discuss data collection and the creation of the tool.

Rep. MacKay stated that a major part of the Council's purpose was to collect and report on this type of information, and that a subgroup would be the next step. He noted that Dr. Savage had testified many times in the legislature and her expertise would be beneficial in the creation of any data collection tool.

Q. Attorney Chaffee agreed that Dr. Savage had testified many times in the past, and given her work in the field of addiction, the testimony had not generally been in favor of the program. Attorney Chaffee stressed the need for a balanced approach to the questionnaire and caution in the questions asked. For example, she noted that the initial health report includes a question that asks for people to admit to having broken the law. Due to the nature of the information collected, Attorney Chaffee indicated that the ACLU would be concerned that the data be collected with sufficient safeguards that it be non-identifiable.

A. Dr. Savage stated that she also works in pain and her past concerns were in calling marijuana "medicine." She further noted that the questionnaire is a draft to allow issues like the one raised by Attorney Chaffee to be addressed.

Q. Rep. MacKay asked if there were any evidence based studies at this time.

A. Dr. Glassman said that some studies have been done, but not for all the listed diagnoses in the statute. There have been questions raised about the effectiveness of marijuana. Studies are complicated and need to be viewed in terms of study size, population studied and other issues. The study of marijuana has been complicated by it being a Schedule 1 drug.

Q. Dr. Glassman raised two questions about the program. First, there is no way to verify the use of marijuana by a patient who buys it at a dispensary. He contrasted this with opposed opioids which uses contracts and testing for verification. The second issue Dr. Glassman raised was information he recently received from a colleague in another state where that state has more cards issued to patients than there are people registered at dispensaries.

A. Rep. MacKay suggested individuals may be buying on the black market due to cost factors. Director Castelli suggested that other states have a "home-grow" option for patients.

Dr. Glassman responded the state he was referring to was not a "home-grow" state.

Q. Mr. Holt asked about collecting data relative to broader societal outcomes.

A. Dr. Savage described existing studies that are conducted on an annual basis including one that asks young people (12-17 years old) about their drug use in the past 30 days and past year. She also described the National Survey of Drug Use and Health that looks at adult drug use. Dr. Savage explained there are a variety of readily accessible sources that gather data at this time on the state and national level, and it is a matter of looking at the data pre- and post- introduction.

Q. Attorney Chaffee asked Attorney Vara to comment on a pending case in the Merrimack Superior Court involving a potentially qualifying patient.

A. Attorney Vara explained that it was not his case, and he would not be able to comment on it.

Dr. Savage needed to be excused, and she introduced Jacob Vardosky, Ph.D. student at Dartmouth College, as her replacement to answer additional questions of the Council.

Dr. Glassman discussed a patient outcome survey that was conducted in Washington, D.C. in 2014. It included nine basic outcome categories: patient access; patient privacy; patient safety; patient satisfaction; diversion; diversion to other states; crime surrounding dispensaries; and drug dependency and abuse.

Q. Mr. Holt asked if Dr. Glassman would share the survey with the Council.

Rep. MacKay extended the thanks of the Council to Commissioner Toumpas for his support of the program without the Department's being provided additional resources.

Rep. MacKay has been hearing that marijuana is not effective for treating certain conditions, and he expressed that it is the responsibility of the Council to gather accurate information to present it to the Legislature and the Governor.

Dr. Glassman discussed the importance of acknowledging that there are not only individual risks/benefits but also so societal risks/benefits.

Q. Attorney Paul Twomey asked about an article in the Journal of Medicine about the reduction in opioid deaths in states with medical marijuana.

A. Mr. Vardosky responded that he was aware of the study but had not reviewed it in depth. He noted that it was a complicated issue because controlling for other variables in large population studies is very difficult. Dr. Glassman added there is a difference between causation and correlation.

Q. Rep. Nelson asked if there would be any benefit in finding out who declined to do the survey.

A. Dr. Glassman responded that it would be difficult to know who wasn't completing the surveys.

### **Advisory Council Member Updates/Public Participation**

- Mr. Vincent described the contact he had had with various individuals. He has had people asking him about the cost of the marijuana; the lack of a home grow option under the law; and the possibility of waiving the \$50 application fee. He had one individual who questioned the constitutionality of barring home grow.
- Attorneys Vara and Twomey each voiced an opinion that the home grow issue was unlikely to be a constitutional problem.
- Attorney Chaffee raised the case of Linda Horan, an individual with terminal lung cancer, who was seeking access to medical marijuana in Maine and was not allowed a card.
- A member of the public questioned the wisdom of the Attorney General's office spending money to fight the case. He requested the Council take a position that the card should be issued.
- Another member of the public talked about knowing three patients who have died waiting for medical marijuana to become a reality.

- Attorney Twomey expressed his appreciation of the Department's efforts to get the program going.
- A member of the public asked if medical providers could be provided with more information.
- APRN Hunter agreed that a lack of knowledge in the medical community was an issue. She described raising the topic recently at a hospice and palliative care program. The attendees, who had very little knowledge about the program, were concerned about being held liable for bad outcomes and other issues related to the process. One provider also brought to her a letter from an ATC that he felt was one-sided on the issue of the use of cannabis.
- Mr. Holt responded that the Department has information on the website for providers, and the ability of the Department to outreach to providers is evolving. The Department, however, is not encouraging any individual to use, and the legal liability of providers is not a Department issue.
- Director Castelli added that the medical society put on a very good presentation in September that included a lively discussion about liability.
- Dr. Glassman offered that the medical society has offered two programs on the topic and has online resources for providers.
- Ms. Horgan noted that Exeter Hospital is working on a policy to not allow physicians/APRNs to issue certifications. Mr. Holt asked Ms. Horgan to collect the information on providers and groups that will not allow certifications and provide it to the Department and the Council.
- Attorney Keshen asked if the Council disagreed with the position being taken by the Attorney General's office in pending litigation would the Council be able to inform the AG's office of their disagreement. Rep. MacKay responded that the Council is advisory to the Department, not the Attorney General, so any opinions are more properly directed to the Commissioner. Director Castelli explained that the Department sought assistance from the Attorney General's office when the law was first passed regarding the issuance of the cards. The advice that given is what has been followed. Attorney Twomey explained that the court is likely to issue its opinion in the near future, and an opinion issued to the Attorney General's office would probably be unnecessary.
- Attorney Chaffee questioned the justification for the prohibition by institutions on medical providers.
- Dr. Glassman explained that the certification form may not be prescribing, but the provider knows that the individual intends to use cannabis. He said that the Medical Society has been working on developing an informed consent sheet for patients to sign that providers may elect to use.
- A member of the public said that he is concerned that the lawsuit being pursued by the Attorney General's office will have a chilling effect on other patients.
- Denis Acton, patient survivor and advocate, described a process he has developed to work with providers who are barred from writing certifications.

Motion to adjourn was made by Representative Nelson, seconded by Richard Vincent. Motion passed.

The meeting was adjourned at 2:52 p.m.