

DHHS Therapeutic Cannabis Medical Oversight Board Meeting
January 8, 2020, DHHS Offices, 29 Hazen Drive
Meeting Minutes

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

Members Absent: Corey Burchman, David Conway, Bert Fichman

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

Meeting convened at 5:38 p.m.

Minutes

Meeting minutes from 11/13/19 were approved.

Motion: Brown; Second: Rossignol; Vote: 9-0 (Thapa not present yet)

Board's 2019 Annual Report

2019 Annual Report was approved.

- Discussion about the report not containing the names of the authors of individual condition recommendation reports; authorship could be determined based on previous meeting minutes.

Motion: Withrow; Second: Brown; Vote 10-0

2019 Report, and all subsequent annual reports, approved to be posted on the TCMOB webpage maintained by DHHS.

Motion: Savage; Second: Brown; Vote 10-0

Legislative Update

Retained Bills from 2019

- HB 366, adding opioid use disorder as a qualifying medical condition.
 - House approved on 1/8/20, 289-65. Bill now goes to the Senate for a public hearing.
 - Discussion about any further action by the Board on this bill, including for example, a reconsideration of the Board's original position against recommending this change.
 - Discussion on the amended bill language, and the Board's motion from 10/9/19 meeting.
 - Clarity desired in the bill that a DATA 2000 waived clinician must be providing medication assisted treatment to the individual qualifying patient to be certified.
 - One member stated that at some point we need to trust the certifying provider
 - One member stated that the Board's charge includes educating the provider community
 - One member expressed agreement with the direction of the discussion.
 - One member raised the question of a "CBD-only" certification, and expressed concern that one ATC considers a certifying provider's recommendations/instructions for dispensing to be a "starting point." Discussion:

- CBD is available as Epidiolex; available off label which means certification to obtain CBD is not necessary. Epidiolex expensive, but many needed pharmaceuticals are expensive.
- CBD also available OTC, but purity is uncertain.
 - It was noted that what works for one patient does not work for others, doctors need latitude in determining what people use and for some with OUD THC may be necessary.
 - Since the literature on impact of cannabis on OUD is mixed, it was suggested that if MOB were to support use, this should be framed as a clinical trial
 - There was discussion of the difficult feasibility of mandating a clinical trial. This was thought to be a barrier to access.
 - Tentative support for this idea with more work.
- Board agreed not to retake the vote on recommending this condition being added.
- Motion to recommend amending the bill to clarify that a DATA 2000 waived clinician must be providing medication assisted treatment to the individual qualifying patient to be certified, by adding “for the individual patient”
 - Discussion: Vote is on the amendment only, and not on the underlying bill.
 - Motion: Savage; Second: Rossignol; Vote 9-1 (Brown: no)
- HB 461, adding insomnia as a qualifying medical condition.
 - House approved on 1/8/20, voice vote. Bill now goes to the Senate for a public hearing.
- SB 175, removing all qualifying medical conditions.
 - Senate voted ITL on 1/8/20, voice vote.

2020 Proposed Legislation

Mr. Holt briefly introduces the TCP-related bills for the 2020 legislative session. The following bills have discussion:

- LSR 2020-3069, relative to the use of cannabis for therapeutic purposes program (no bill number; no bill text)
 - Department-requested legislation related to the LBA’s TCP performance audit.
 - Contains a provision (discussed by the Board at its 7/7/19 meeting) to allow a certifying provider to issue a written certification for up to 3 years, at the provider’s discretion.
 - One member expressed concern about this provision regarding the lack of provider follow-up that might result.
- HB 1591, relative to cannabis use during pregnancy (requires ATCs to hang a poster and provide a brochure about the risks for pregnant and breast-feeding women)
 - One member suggested that female patients of child-bearing age should be counseled on the risks of cannabis use during pregnancy or while breastfeeding

- Department staff offered that the Department’s language and messaging on this issue was consistent and uniform: “There is no known safe amount of cannabis use during pregnancy and while breastfeeding.”
- One member mentioned a recent study of cannabis dispensaries in Colorado (both medical and adult use), which showed that some dispensaries actively recommended cannabis use while pregnant, and indicated no potential harm.
- Dr. David Syrek, a representative of Sanctuary ATC (public attendee), stated that the ATC actively discourages cannabis use during pregnancy and while breastfeeding.
- One member said that it was important to do more on this issue than what the bill calls for (a poster and a brochure) and that the Board should advocate for more.
- Motion to support the underlying bill and recommend adding a requirement for counseling by the ATC and the certifying provider for all women of child-bearing age about the risks of cannabis use during pregnancy and while breastfeeding.
 - Motion: Brack; Second: Morse; Vote 9-1 (Brown no)
- HB 1265, changes definition of “qualifying medical condition”
 - Bill adds “prescription” to the law and turns the statutory list of qualifying medical conditions into a series of examples of conditions for cannabis certification, but permits any condition diagnosed by a provider to be the basis of certification (like SB 175, which the Senate voted to ITL).
 - Motion to recommend changing “prescription” to “certification or recommendation” and take no other position on the bill.
 - Motion: Brown; Second: Withrow; Vote: 2-8 (Brown and Withrow yes)
 - Motion to oppose bill.
 - Motion: Savage; Second: Rossignol; Vote 6-2 (Brown and Withrow yes) (Ballard and Morse abstain)
- LSR 2020-2902, adding autism as a qualifying medical condition
 - Knirk asks for member volunteers to research issue and report at the next meeting.
 - Morse and Brack volunteer; Savage noted she will try to recruit a developmental pediatrician to consider this as well.
- Other bills:
 - HB 1386, employee protections for qualifying patients.
 - HB 1345, allows ATCs to organize as for-profit entities
 - LSR 2020-2754 allows patients to go to any ATC, no longer limits to one at a time
 - LSR 2020-3069, DHHS-requested legislation related to the LBA audit. Allows certifying medical providers can to issue a written certification for up to three years
 - Discussion about risk of patients not being followed.

Focus Areas for 2020

Knirk reviewed the Board’s charges, and posed the question of what should the Board’s priorities be for 2020. Discussion of possible priorities:

- Monitoring clinical outcomes
- Education of clinicians
 - Develop clinical tools
 - Should certifying clinicians be required to receive cannabis education

- Podcast on cannabis
- Consider different audiences: current certifiers, providers who don't certify, hospital/health care systems and other large medical practices who prohibit providers from certifying.
- Review of qualifying conditions
 - It was suggested that perhaps epilepsy be taken off the list because Epidiolex is available and THC is known to increase seizures.
 - Glaucoma was also noted as a possible condition that could be removed since there are many effective alternatives.
 - It was noted that removing conditions from the statutory list of qualifying conditions would be an uphill battle and may not be a good use of the board's time, particularly in the first part of the year, since any legislation resulting from such a recommendation wouldn't be heard until the 2021 legislative session.
- It was agreed that next meeting the board would discuss:
 - Autism, due to pending legislation
 - Educational strategies, structure, audiences etc.
- Members were encouraged to bring and share materials prior to meeting by email

Member Updates

Knirk mentioned his CBD legislation that will assure purity and consistency of CBD, which he will send to members via email.

Public Comments

- Creating barriers to accessing the Therapeutic Cannabis Program, by removing currently allowed qualifying medical conditions, is a problem because it will have the effect of forcing patients who wish to continue to use cannabis for therapeutic purposes to use unknown products from informal, illicit, or otherwise non-regulated sources.
 - Glaucoma removal would hurt patients; mention of one current patient for which nothing else works
- If a caregiver picks up cannabis, the dispensary must speak to the patient, but this is a problem when patient is non-verbal.
 - This is a Department rule issue. It was noted the rules already have this flexibility.
- Important to think about potential organizational partners in education efforts.
 - For example, the WIC community could be involved in counseling for low-income pregnant and breast-feeding women.

Board Meeting Schedule

Discussion on 2020 board meeting schedule for 2020. The Board agreed to

- Meet monthly; and
- Change meeting days to the first Wednesday of each month (due to a regular conflict with the Board of Medicine meeting schedule).

Meeting adjourned at 7:45.