

Report & Recommendations to the New Mexico Secretary of Health

From the Medical Cannabis Advisory Board to the Medical Cannabis Program

From a Public Hearing on Friday November 4th at the Harold Runnels Building Auditorium, 1190 St. Francis Drive, Santa Fe NM

Report prepared by J. Mitchell Simson M.D., MPH Chair, for the Medical Cannabis Advisory Board.

A public hearing of the Medical Cannabis Advisory Board to the New Mexico Medical Cannabis Program was held in the Harold Runnels Building Auditorium at 1190 St. Francis Drive in Santa Fe NM from 10:00 AM to 1:15 PM on Friday November 4th, 2016.

A. Introductory Comments, Introduction of Board Members, Approval of Agenda, Election of New Chair

Dr. Mitchell Simson called the meeting to order at 10:05 AM.

Board members present:

1. Laura Brown, MD, Family Medicine
2. Rachel Goodman, MD, Obstetrics/Gynecology
3. William Johnson, M.D., Psychiatry
4. Timothy Lopez, MD, Oncology
5. Bélyn Schwartz, MD, Physical Medicine & Rehabilitation
6. Mitchell Simson, MD, Internal Medicine and Addiction Medicine

Member excused:

1. Jeff Nelson, MD, Neurology

Present representing the Department of Health:

1. Kenny Vigil, new Director, Medical Cannabis Program
2. Andrea Sundberg, Program Coordinator, Medical Cannabis Program
3. Chris Woodward, JD, Office of the General Counsel

Not present from the Department of Health:

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Nominations were taken for the new Chair of the Medical Cannabis Program Advisory Board. Dr William Johnson nominated Dr Mitchell Simson and the motion was seconded by Dr Rachel Goodman. The Advisory Board voted unanimously to accept Dr Mitchell Simson as the new Chair of the Medical Cannabis Advisory Board.

Dr Timothy Lopez announced that this was his last Board meeting as he was going on a sabbatical. The Board thanked him for his years of service and input. The Chair then asked the Board members to send him names of other physicians who might be recruited for this position. In addition, with the retirement of Dr Steve Jenison, the Chair also asked that the Board members send him possible nominees to fill the open Infectious Disease Advisory Board position.

The Public Hearing Agenda was reviewed and approved.

B. Medical Cannabis Program Update

Kenny Vigil introduced himself as the new Program director for the Medical Cannabis Program. He announced the resignation of Ken Groggel from the position of compliance manager. Mr. Vigil stated the number of active patients is 32,840 and the Program's average processing time was 23 days in the month of October. This reflects a 76% increase in the number of active patients since October 2015. The data showing the numbers of patients with each diagnosis and the number of patients per county was not available at the time of the meeting. The Chair requested that this information be forwarded to Andrea Sundberg as soon as it is available so she could forward to the Advisory Board. All correctly completed applications have been approved for Medical Cannabis.

Mr. Vigil stated the Program is filling many new positions and is implementing many changes to improve the application process and processing times. This includes possible modifications to the application and the exploration of electronic application submission. The Program has hired licensing and compliance staff and are implementing more processes for inspections of licensed producers. Mr Vigil was asked about any problematic inquiries to the Program from Law Enforcement since the last public meeting and he said that there were none.

C. Actions of the Secretary of Health on the Recommendations of the Medical Cannabis Advisory Board from the Public Hearing on April 29th, 2016

There were no petitions submitted for additional diagnoses to the present list of approved diagnoses for Medical Cannabis.

D. Hearing on Petition Three to Add Opiate Dependence as an approved condition

Anita Briscoe gave testimony to add opiate dependence to the list of approved conditions for Medical Cannabis. The petition is attached to this report. In addition many pages of technical evidence were submitted on the day of the hearing by Drug Policy Alliance but this could not be presented due to time constraints. These pages are also attached to this report. This petition had strong support from various members of the community including a letter of support from Bryan Krumm, Representative Deborah Armstrong, Dr. Bruce Trigg, Dr. Steve Jenison, and Senator Ortiz y Pino. Dr Laura Brown spoke about her work with people with addiction and that she fully supports adding Opiate Dependence as a condition. What followed was a lengthy discussion concerning the definition of "addiction", "abuse" and "dependence" including what wording would need to be selected for the qualifying condition. Dr Simson stated that any description would necessarily need to reflect the DSM-V criteria for a substance use disorder and that we would need to state whether this was "mild", "moderate" or "severe" based on the 11 criteria. Much discussion was made about cannabis ameliorating the withdrawal of opioids and thereby assisting patients in stopping opioids or at least reducing the total opioid dose thereby reducing the possibility of overdose or death. There is some research that does support both of these points. However, Dr

Simson pointed out that there are several other controlled and non-controlled medications which can do the same thing. He also felt that trading one “addiction” for another is not medically or ethically sound.

Motion: Dr. Laura Brown moved that the Medical Cannabis Advisory Board recommend to the Secretary of Health that Opiate Use Disorder as defined in DSM-V be added to the list of conditions eligible for enrollment in the New Mexico Medical Cannabis Program.

Voting in favor of the Motion: Brown, Goodman, Johnson, Schwartz, Lopez

Voting against the Motion: Simson

Absent: Nelson

Board Action: By a vote of 5 to 1, the Medical Cannabis Advisory Board recommends to the Secretary of Health that Opiate Use Disorder as defined in DSM-V be added to the list of conditions eligible for enrollment in the New Mexico Medical Cannabis Program.

E. Hearing on Petition Seven to Add Alzheimer’s Disease as an approved condition

Leigh Jenke gave testimony to add Alzheimer’s disease to the list of approved conditions for Medical Cannabis. The petition is attached to this report. The Board heard a similar petition at the April 23, 2014 public meeting and the Board had recommended adding the condition “Neurodegenerative Dementia to include Alzheimer’s” as a qualifying condition but this was rejected by the Secretary of Health.

Motion: Dr. Johnson moved to add Neurodegenerative Dementias to include Alzheimer’s be added to the list of conditions eligible for enrollment in the New Mexico Medical Cannabis Program. Dr Simson seconded.

Voting in favor of the Motion: Brown, Goodman, Johnson, Schwartz, Simson

Voting against the Motion: none

Abstain: Lopez

Absent: Nelson

Board Action: By a vote of 5 to 0, the Medical Cannabis Advisory Board recommends to the Secretary of Health that Neurodegenerative Dementias to include Alzheimer’s be added to the list of conditions eligible for enrollment in the New Mexico Medical Cannabis Program.

F. Hearing on Petition Six to add Autism as an approved condition.

Since the petition was solely PHI the Board went into Executive Session and met with the petitioner in a private room. The petition is attached to this report. The Board deeply empathized with the parent who presented the petition. The Board felt that although there is adequate data for cannabinoid efficacy in some childhood seizure disorders (primarily with cannabidiol) that information is lacking for Autism Spectrum Disorder. The Board noted that Autism has been added as an accepted diagnosis in Delaware and Pennsylvania but it did not have their data to support the addition of this diagnosis.

Motion: Table the petition until the next public hearing. Motion seconded by Dr Laura Brown.

Voting in favor of the Motion: Brown, Goodman, Johnson, Schwartz, Simson, Lopez

Voting against the Motion: none

Absent: Nelson

Board Action: By a vote of 6 to 0, the Medical Cannabis Advisory Board tabled the petition until the next public hearing.

G. Hearing on Petition Five to add ADD/ADHD as an approved condition

The person submitting the petition did not attend the hearing. The Board discussed that the Board had previously considered adding ADD/ADHD at the October 30, 2015 as a condition and ultimately recommended not adding the condition.

Motion: Dr Lopez moved to table the petition until the next public hearing. Motion seconded by Dr Laura Brown.

Voting in favor of the Motion: Brown, Goodman, Johnson, Schwartz, Simson, Lopez

Voting against the Motion: none

Absent: Nelson

Board Action: By a vote of 6 to 0, the Medical Cannabis Advisory Board tabled the petition until the next public hearing.

H. Hearing on Petition to allow Telemedicine evaluations of patients applying for Medical Cannabis

Dr Birkmayer gave eloquent testimony to allow Providers to do Telemedicine evaluations of patients applying for Medical Cannabis cards. The petition is attached to this report. There was discussion as to how this could be implemented, how to ensure confidentiality, how to validate the applicant's identity, as to whether this would be provider to provider or provider to patient. Dr. Brown pointed out that UNM's Project Echo is a nationally recognized tele-medicine Program with great success in assisting providers with the management of many chronic diseases. Dr Johnson pointed out that tele-psychiatry has been successful for many years on a provider to patient basis with a responsible party present with the patient. The Board is fully supportive of this petition. The Chair modified the request that the Department of Health consider approving this type of service and report back to the Board within 4 months what would be necessary to implement it fully.

Motion: Dr. Lopez moved that the Medical Cannabis Advisory Board recommend to the Secretary of Health that Telemedicine evaluations of patients by Medical providers for the conditions eligible for enrollment in the New Mexico Medical Cannabis Program be allowed. Dr Brown seconded. Dr Simson modified request that the DOH report back to the Board within 4 months on what they would require to implement this change.

Voting in favor of the Motion: Brown, Goodman, Johnson, Schwartz, Lopez, Simson

Voting against the Motion: none

Absent: Nelson

Board Action: By a vote of 6 to 0, the Medical Cannabis Advisory Board recommends to the Secretary of Health to determine what requirements it needs to allow providers to do Telemedicine evaluations of patients for the conditions eligible for enrollment in the New Mexico Medical Cannabis Program and to report to the Board these requirements within 4 months.

I. Petitions on Plant Increase allowances by Producers

Testimony was given by Victoria Bruce and Leonard Salgado. Both feel there is a deficit of product due to limitations on plant numbers. Testimony by producers and the public have mentioned this for over a year at the public hearings. In addition, in the last year the demand has skyrocketed and supplies have not kept up with demand. There was discussion as to what can be done quickly to address these issues. The first is simply to increase the total plant allowance for the producers. The second would be to exempt from the total plant counts product that is being used for extracts and oils. These require much more plant material which presently comes from the total plant count. The third is to automatically increase the plant count across the board as more and more patients are added to the Program. Some petitioners have suggested co-ops for PPL's. Dr Simson recommended that if this were considered then the products would need to be tested to ensure safety.

Motion: Dr Simson moved that the Secretary of Health immediately increase the allowable plant counts for the producers. No specific number increase was recommended. Motion seconded by Dr Johnson.

Voting in favor of the Motion: Brown, Goodman, Johnson, Schwartz, Lopez, Simson

Voting against the Motion: none

Absent: Nelson

Board Action: By a vote of 6 to 0, the Medical Cannabis Advisory Board recommends that the Secretary of Health immediately increase the allowable plant counts for the producers.

J. Discussion regarding voting by proxy: Several times during the hearing there was discussion as to what would constitute legal voting by proxy. Before the hearing Dr Nelson had sent the Chair his thoughts about the petitions including his decision to add or not add them to the list of approved conditions. Board and Program comments included the concern that there might be additional supportive data either written or verbal given at the public hearing that might be missed. In the past, we have allowed proxy voting when we have had live telecommunication set up between the Board member and the public hearing. I think we do not have any concerns about allowing proxy voting in this instance.

For the most part, the "live" testimony has been a reading of the petition which has already been submitted and reviewed by the Board members prior to the public hearing. In that instance, there is little or no additional data presented to the Board at the public meeting and so proxy voting is essentially based on the petition's data and would not significantly change were the Board member be unable to be in attendance personally or by telecommunication.

In reviewing Board voting over the years there has been no instance where a single absent or proxy vote has made a difference in the overall approval or denial decisions made by the Board and sent to the Secretary of Health.

The Board asked Counsel to review this issue and assist the Board in recommendations in this area for future meetings.

K. Public Comment: Comments were taken from members of the public.

L. Adjournment and Next Public Hearing: The public hearing was adjourned at 1:15 PM. The next public hearing is tentatively scheduled for Friday April 7, 2017.

M. Attachments

- i. Medical Cannabis Program Update Report
- ii. Petitions for adding Opiate Addiction, Alzheimer's Disease and Autism including references and additional technical material
- iii. Petition for allowing Telemedicine evaluations for patients including references and additional technical material
- iv. Petitions for increasing plant allowances by producers including references and additional technical material

Respectively submitted by:

J. Mitchell Simson MD, MPH Chair, NM Medical Cannabis Program Advisory Board
11/21/16