

## **Report & Recommendations to the New Mexico Secretary of Health**

### **From the Medical Cannabis Advisory Board (MCAB) to the New Mexico Department of Health Medical Cannabis Program (NMDOH MCP)**

#### **From a Public Hearing on Wednesday December 9, 2020 9:00 am to 12:00 pm**

Report prepared by Stephanie Richmond PA-C, Chair for the Medical Cannabis Advisory Board.

A public hearing of the Medical Cannabis Advisory Board to the New Mexico Department of Health Medical Cannabis Program was conducted via web-based platform from 9:00 am to 12:00 pm on Wednesday, December 9, 2020.

#### **A. Call to Order, Introductory Comments, Board Member Introductions**

Stephanie Richmond, PA-C called the meeting to order at 9:03

Board members present

1. Arielle Bauers, CNM, CNP Certified Nurse Midwife and Psychiatric Mental Health Practitioner
2. Kenneth Corazza, RPh, PhC
3. Jean-Paul Dedam, MD Family Medicine and Medical Acupuncture
4. Courtney Marquez, PA-C Medical oncology
5. Davin Quinn, MD Psychiatry
6. Stephanie Richmond, PA-C Family Medicine
7. Traci White PharmD, PhC

A quorum was established as 7/9 members present

Present representing the Department of Health

1. Gary French, MD Director of the Medical Cannabis Program
2. Dominick Zurlo, MD Director of the Medical Cannabis Program
3. Elizabeth Jensen, Health Educator Medical Cannabis Program
4. Chris Woodward, JD, Office of the General Counsel
5. Martinik Gonzales, Licensing and compliance manager for the Medical Cannabis Program
6. Amanda Sundberg, Health Program Manager Medical Cannabis Program

#### **B. Medical Cannabis Program Update**

Dominick Zurlo Medical Cannabis Program Director

At the end of November 2020, there are 101,770 enrolled patients. The amount of growth over the last month of slightly more than 1,000 patients is similar to the same time frame last year. The fourth quarter supply numbers will be available at the end of December 2020.

The supply of product for 3<sup>rd</sup> quarter 2020: 51,250 plants licensed, 30,264 mature plants, 21,279 harvested plants. This is 40 % increase over the same quarter from 2019 when 15,145 plants were harvested. There is still the possibility for Licensed non-profit producer (LNPP) to grow approximately 21,000 more plants than were in production at the end of the 3<sup>rd</sup> quarter 2020. At the end of the 3<sup>rd</sup> quarter 2020, the LNPP had 5,774,625 grams of flower and bud in stock with 3,617,266 units of cannabis derived products in stock. For comparison, at end of 3<sup>rd</sup> quarter in 2019, approximately 3,888,000 grams

of flower and bud were in stock. The cannabis derived products were not accounted for in the same manner during 3<sup>rd</sup> quarter 2019. This is 48.5% increase in flower and bud over the same time period in 2019. The program continues to process applications, meet the 30 day requirement for approval or denial of the application, and mail in the additional 5 days. The program also continues to ensure LNPP license renewal, reviewed amendments, and relicense manufacturers and review amendments. Due to COVID concerns, the Department has conducted site visits virtually and in person when safe and appropriate. They are also working with Biotrack THC so that patients and providers could submit applications online and will be available soon.

### **C. Review of Minutes and Summary of Votes from November 16, 2020 MCAB meeting**

Review of vote tallies from the previous meeting to establish a clearer record and provide summary of items adopted by the MCAB at the November 16, 2020 meeting.

Stephanie Richmond confirmed by roll call vote as the MCAB Chair with Bauers, Corazza, Dedam, Marquez, Quinn, Richmond, White voting aye.

Jean-Paul Dedam confirmed by roll call vote as the MCAB alternate chair with Bauers, Corazza, Dedam, Marquez, Quinn, Richmond, White voting aye.

Confirmation that the review of the proposed rule changes for reciprocity was tabled by roll call vote with Bauers, Corazza, Dedam, Marquez, Quinn, Richmond, White voting aye.

The MCAB approved the petition 2019-008 to add ADHD, ADD, Anxiety Disorder and Tourette's Syndrome as qualifying conditions with the modification to use for "adults only" with 9 ayes and 0 no votes.

The MCAB approved the petition 2019-009 to add Substance Use Disorder as a qualifying condition with the modification that it include Tobacco Use Disorder, Stimulant Use Disorder and Hallucinogen Use Disorder with 9 ayes and 0 no votes.

The MCAB seconded the motion to table the petition 2019-010 Add Medical Cannabis therapy for seizure in animals until the next meeting with 9 ayes and 0 no votes.

The MCAB seconded the motion to approve petition 2020-002 with supporting documents – MCAB Petition Adequate Supply 03.29.2020 which sought to raise the purchase limits to 420 units, or 15 ounces, over a 90 day supply with 8 ayes and 1 no vote.

The MCAB seconded the motion to table the 2020-001 MCAB Petition Connection with the determination of adequate supply until the next meeting with 9 ayes and 0 no votes.

The MCAB seconded the motion to approve the meeting minutes with 7 ayes and 0 no votes.

### **D. Review of Proposed Rule Changes**

*Allen Plymale, MD, RPh, PhC joined the meeting with video as a MCAB panelist.*

Dr. Zurlo reviewed the synopsis that was given at the November 16, 2020 MCAB meeting. The proposed rule changes for 7.34.4.28 Reciprocity and is included as an attachment, along with the Summary of

Medical Cannabis Program Rule Amendments to 7.34.4.28. He reiterated that the rule changes would ensure that New Mexican participants are under medical care that is required to be enrolled in the program. The proposed rule changes would not allow a New Mexico participant of the program to also participate as a reciprocal patient. It defines a non-resident and requires that the participant's place of residence is the same as the place of cannabis program enrollment. It further defines a New Mexico resident and that a member of New Mexico Indian nation, tribe or pueblo that is participating in that cannabis program may participate as a reciprocal patient. The proposed reciprocal limit is 230 units in one year. The LNPP is required to compare the proof of authorization of participation in the form of a government issued card or document to the patient's government id and verify that it is consistent. This information is to be tracked in a database and prevent duplicate enrollment for the same patient.

The Chair, Stephanie Richmond, moved to untable the discussion of Reciprocity and was seconded by the alternate chair, Jean-Paul Dedam. The Board voted to untable the proposed rule changes of Reciprocity 7.34.4.28 for further discussion with a vote of 8 ayes and 0 no votes.

The MCAB discussed the inclusion of the language that "A qualified patient may not be registered or participate as a reciprocal participant in the New Mexico medical cannabis program." We recognize that this would prevent double dipping and ensure that the participant is under the medical care of a provider. There was no opposition or discussion of modification to this language.

Board action: By a unanimous approval, the MCAB recommends to the Secretary of Health that the language "A qualified patient may not be registered or participate as a reciprocal participant in the New Mexico medical cannabis program" is adopted.

The MCAB discussed the proposed language for (3) Residency requirements (a) and (b) and we were all in agreement that the inclusion of this language be accepted without modification.

Board action: By unanimous approval, the MCAB recommends to the Secretary of Health that the proposed language outlined for 7.34.4.28 Section (3) (a) (b) is adopted.

The MCAB had extensive discussion about the language for the reciprocal limit. The proposed language states that the reciprocal participant may possess 230 units within any one year. The MCAB endorses that reciprocal participants should have the ability to have access to the same amount of medication as other qualified participants. We also recognize that some reciprocal patients may not be able to change their residency to New Mexico, ie students, and that others may be in New Mexico for longer than 6 months, ie snowbirds. We propose that these patients would require a letter of extension in order to continue participation as a reciprocal participant after six months. This would be consistent with the provision that there be consideration by the department to increase quantity limits for participants. This occurs when a provider writes to the department indicating that the participant requires a higher quantity of medical cannabis. In terms of reciprocity, the letter of extension for the reciprocal patient could come from either a provider in New Mexico or the reciprocal participant's provider in another state. The letter would also serve to verify that the reciprocal patient is still under the care of a medical provider in order to qualify them for a medical cannabis program. The access to the same amount of medical cannabis and the option for a letter of extension would ensure that reciprocal participants are

able to have access to the medical cannabis without a gap in their care while also ensuring ongoing care from a medical provider.

Motion: Stephanie Richmond moved that the reciprocal limit be approved with modification. Kenneth Corazza seconds the motion.

Voting in favor of the motion with modification: Bauers, Corazza, Dedam, Marquez, Plymale, Quinn, Richmond, White

Board action: By a vote of 8-0, the MCAB recommends to the Secretary of Health that the language is modified in 7.34.4.28 Section B: A reciprocal participant may collectively possess within any six month period a quantity of usable cannabis that is consistent with limits allowed to a qualified patient. The reciprocal patient may file for an additional six month extension with a letter from their provider.

The MCAB discussed the proposed language for the 7.34.4.28 Section C. (2) that requires the LNPP to compare the individual's proof of authorization to the government-issued photo identification and verify that the information is consistent.

Motion: Stephanie Richmond moved to adopt the language without modification and Davin Quinn seconds.

Voting in favor of the motion: Bauers, Corazza, Dedam, Marquez, Plymale, Quinn, Richmond, White

Board action: By a vote of 8-0, the MCAB recommends to the Secretary of Health that the language in the 7.34.4.28 Section C. (2) that requires the LNPP to compare the individual's proof of authorization to the government-issued photo identification and verify that the information is consistent be adopted.

The MCAB discussed the proposed language for 7.34.4.28 Section C (4-7). There was no opposition to this language and there was general agreement for its inclusion.

Motion: Stephanie Richmond moved to accept this language and Arielle Bauers seconds.

Voting: Bauers, Corazza, Dedam, Marquez, Plymale, Quinn, Richmond, White

Board action: By a vote of 8-0, the MCAB recommends to the Secretary of Health that the proposed language in 7.34.4.28 Section C (4-7) and D is included.

The MCAB discussed the proposed language for 7.34.4.28 Section D. There was no opposition to this language and there was general agreement for its inclusion.

Motion: Stephanie Richmond moved to accept this language and Davin Quinn seconds.

Voting: Bauers, Corazza, Dedam, Marquez, Plymale, Quinn, Richmond, White

Board action: By a vote of 8-0, the MCAB recommends to the Secretary of Health that the proposed language in 7.34.4.28 Section D is included.

## **E. Petitions from the Public**

### **1)2019-010 Add Medical Cannabis Therapy for Seizures in Animals**

The MCAB moved, seconded and approved to untable the petition for discussion by unanimous vote. Since the last meeting, the chairperson contacted the New Mexico Board of Veterinary Medicine. There was verification that the board allows the members to discuss medical cannabis for treatment in pets. However, they do not endorse prescribing the cannabis and have followed the guidelines set forth by the American Veterinary Medical Association (AVMA). The AVMA cites limited peer review and published information, lack of FDA-approval for therapeutic use and labeling concerns, variable potency that could lead to toxicosis in the animal. The MCAB members cite concern over our focus for the care of humans and not pets, that there are established medical boards for the veterinarians and that it is not the purview of the MCAB to consider this petition.

Motion: Stephanie Richmond moved that the petition 2019-010 Add Medical Cannabis Therapy for Seizures in Animals be denied and Davin Quinn seconds the motion.

Voting to deny the petition: Bauers, Corazza, Dedam, Marquez, Plymale, Quinn, Richmond, White

Board action: By a vote of 8-0, the MCAB recommends to the Secretary of Health that the petition 2019-010 Add Medical Cannabis Therapy for Seizures in Animals be denied.

### **2) 2020-002 with supporting with supporting documents – MCAB Petition Adequate Supply 03.29.2020**

The MCAB moved, seconded and approved to untable the petition for discussion by unanimous vote. The MCAB recognizes that there is a need for lower cost, higher supply and a wider variety of cannabis available to the participants. We agree with the principle of making cannabis more affordable and available in a safe and responsible manner. The MCAB also recognizes that we have increased the purchase limits and the qualifying diagnoses and that a subsequent increase in the plant count would continue to ensure an adequate supply for the participants. We recognize that a change with the plant count has the potential to impact the regulation required by the department. An incremental and substantial increase of the plant count would allow the department to assess the necessity for more cannabis that constitutes an adequate supply. The department would then be able to incrementally increase the regulatory requirements to ensure the safety of the cannabis for the participants. The department confirmed that the units available is monitored quarterly in order to make an assessment as to the adequate supply and endorsed that the current amounts constitutes an adequate supply. However, the petitioner states that there is not an adequate supply for the participants and indicates reporting discrepancies by the department. The department also recognizes that the supply is more limited in the rural and frontier areas of the state. The MCAB recognizes that the cost of the cannabis poses an additional barrier for patient access and we encourage the LNPP and department work on decreasing the cost of the cannabis. We would also like to encourage the LNPP to produce cannabis strains that have a therapeutic purpose with high CBD strains that would alleviate symptoms caused by the medical diagnoses of the participants. This could also offer a wider variety of cannabis for the participants. We also suggest that another avenue of increasing the adequate supply could be achieved through more licenses for LNPP, which could allow for more access in rural areas.

Motion: Stephanie Richmond moved to modify the petition in order to significantly increase the plant limits with the understanding that there will be ongoing regulation of the cannabis that is being produced. The substantial increase in the plant count would also ensure an adequate supply for the inclusion of qualifying diagnoses that the board has also approved. Davin Quinn seconds the motion.

Voting to approve the petition with modifications: Bauers, Corazza, Dedam, Marquez, Plymale, Quinn, Richmond, White

Board action: By a vote of 8-0, the MCAB recommends to the Secretary of Health that the petition 2020-002 with supporting with supporting documents – MCAB Petition Adequate Supply 03.29.2020 be approved with the modification that there be a significant increase in the plant limits. This increase will continue to undergo regulation of the cannabis that is being produced. The substantial increase in the plant count would also ensure an adequate supply for the inclusion of qualifying diagnoses that the board has also approved.

- F. **Public comment:** comments were taken from the public
- G. **Announcement of public meeting:** the next meeting for the MCAB is to be determined and will be publicly posted
- H. **Adjournment of the meeting:** The public hearing was adjourned at 11:52
- I. **Attachments**
  - 1) 7.34.4.28 Reciprocity
  - 2) Summary of Medical Cannabis Program Rule Amendments to 7.34.4.28
  - 3) 2010-010 Medical cannabis for seizure in animals
  - 4) 2020-002 MCAB Petition adequate supply 03.29.2020 with supporting documents, including survey

Stephanie Richmond PA-C Chair, New Mexico Medical Cannabis Advisory Board

12-9-2020