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## **Final Decision Regarding Medical Cannabis Advisory Board Reports and Recommendations**

### **I. Decision**

I have reviewed the recommendations of the Medical Cannabis Advisory Board contained in the following reports: November 16, 2020, December 9, 2020, and August 17, 2021. In accordance with Department rule 7.34.2.8(B) NMAC, the Medical Cannabis Advisory Board held public hearings on each of those days to review petitions from individuals requesting the addition of new medical conditions and medical treatments for inclusion in the list of debilitating conditions that qualify for the use of medical cannabis, proposed rule changes, and the quantity of cannabis that is necessary to constitute an adequate supply.

As part of my review, I have read the Advisory Board's recommendations and the materials submitted. Below is a summary of petitions and recommendations submitted to the Department of Health ("Department") with my final decision for each recommendation.

#### **A. Recommendation Regarding ADHD, ADD, Anxiety Disorder and Tourette's Syndrome**

The Medical Cannabis Advisory Board considered a petition to add ADHD/ADD, Anxiety Disorder and Tourette's Syndrome to the list of medical conditions qualifying for enrollment in the New Mexico Medical Cannabis Program. The Advisory Board recommended by a vote of 9-0, that ADHD/ADD, Anxiety Disorder and Tourette's Syndrome be included in the list of conditions qualifying for enrollment, but "only for adults".

*ADHD/ADD* was previously considered by the Department in 2015 and again in 2017. On both occasions, the Secretary of Health concluded that the potential adverse consequences of approving ADHD/ADD as a qualifying condition significantly outweighed the benefits. One trademark of ADHD/ADD is low levels of the neurotransmitter dopamine. Many medications used for treating ADHD/ADD work by increasing dopamine. Acute use of THC is also associated with an increase in dopamine release and is therefore thought to be of benefit in those with ADHD/ADD. Other than anecdotes, however, there is little clinical research to support these claims.

Also, over time, long term THC use is associated with an attenuated dopamine release and can result in a "blunting" of the dopamine system. This in turn may contribute to substance use behavior which might explain why people with ADHD are almost eight-times as likely to use cannabis compared to those who do not have ADHD. Studies also show that adults with ADHD are more than twice as likely to meet the criteria for Cannabis Use Disorder.

*Anxiety* was previously considered by the Department in 2017 and not adopted. The consumption of cannabis is known to generate anxiety, and if cannabis is used by someone who

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already suffers from an anxiety disorder, it is possible that their condition will be exacerbated. The materials presented in the petition, while interesting, do not offer any assurance that this would not be the case.

A comprehensive review of human-based studies conducted by the National Academies of Sciences (NAS) published in 2017 observed that the NAS review committee did not identify any good-quality primary literature that reported on medical cannabis as an effective treatment for the improvement of anxiety symptoms. The report noted that there is limited evidence that CBD improves anxiety symptoms. It also stated that evidence from observation studies found moderate evidence that daily cannabis use is associated with increased anxiety symptoms and heavy cannabis use is associated with social phobia disorder.

*Tourette's Syndrome* was previously considered by NMDOH in 2017 and was not adopted to the list of qualifying conditions. There have been systematic reviews concerning the effects of cannabinoids (primarily THC) on Tourette's Syndrome that indicate low quality evidence to support the use of those substances to treat Tourette's syndrome. In terms of actual studies, it appears that there have been only a few small studies regarding the impact of THC on persons with Tourette's Syndrome, which suggested that consumption of THC could reduce vocal tics. However, methodological problems with those studies have been identified in some of the reviews. There have been no controlled studies on the effectiveness of medical cannabis itself in alleviating symptoms of Tourette's Syndrome. There are anecdotal reports that cannabis use may be of benefit. The evidence supporting the use of cannabis to address symptoms of Tourette's syndrome generally appears to be of low quality. This is reflected, for example, in the finding of the National Academy of Sciences in its 2017 report, in which it concluded that there is only "limited evidence that THC Capsules are an effective treatment for improving symptoms of Tourette's Syndrome."

In addition, adding a condition that is limited to "adults only" would create confusion and a problematic precedent. Many medical providers, parents, and minors may assume that since a condition was approved for an adult cohort, that cannabis may also be useful for the adolescent and pediatric populations. Given the sheer volume of children and minors that are diagnosed with ADHD/ADD, Anxiety Disorder, and Tourette's Syndrome, it is likely a large number of them, would be encouraged to begin cannabis use by a medical provider or parent unaware of the "adults only" distinction.

Finally, beginning in April 2022, adults older than 21 years of age with the above qualifying conditions will have the ability to access medical cannabis and see if it controls their symptoms without requiring a medical cannabis card. If the cannabis is successful in alleviating the symptoms of their condition, then the individual may continue using it on their own accord. Currently, however, there is insufficient data to support that cannabis is an effective treatment for these conditions and that its benefits outweigh the potential risks.

For each of the foregoing reasons, I decline to adopt the Advisory Board's recommendations to add ADHD, Anxiety Disorder, and Tourette's Syndrome to the list of medical conditions qualifying individuals for enrollment in the NM Medical Cannabis Program.

## **B. Recommendation Regarding Tobacco Use Disorder, Hallucinogen Use Disorder and Stimulant Use Disorder**

The Medical Cannabis Advisory Board previously considered a petition to add Substance Use Disorder as a qualifying condition for enrollment in the Medical Cannabis Program in 2019. At that time, the recommendation was not adopted because the “umbrella” of Substance Use Disorder would include substances for which it is not clear that the risk/benefit profile of cannabis use is favorable for the health of the individual. The Medical Cannabis Advisory Board modified the current petition to only include Tobacco Use Disorder, Stimulant Use Disorder, and Opioid Use Disorder as Opioid Use Disorder was already a qualifying condition. Alcohol Use Disorder was also removed, in consideration that cannabis-only therapy without proper medical oversight could lead to significant morbidity and death. The Advisory Board voted 9-0 to recommend the addition of Tobacco Use Disorder, Hallucinogen Use Disorder and Stimulant Use Disorder to the list of qualifying conditions for enrollment in the Medical Cannabis Program.

***Tobacco Use Disorder*** – There is very little clinical research to support the use of cannabis to alleviate tobacco usage. Furthermore, studies suggest that concurrent cannabis use was associated with decreased success with quitting smoking in patients seeking smoking cessation. Furthermore, despite downward trends in Cannabis Use Disorder (CUD) observed in the general population, CUD increased among cigarette smokers. Increasing trends in co-use rates have raised concerns that increased access to cannabis may reverse long-standing downward trends in tobacco use and increase the negative consequences associated with use of each substance. Simply substituting cannabis for tobacco is unlikely to result in tobacco cessation and poses unnecessary risk to patients, especially when there are better methods of smoking cessation.

***Stimulant Use Disorder/Hallucinogen Use Disorder*** – Currently, no FDA-approved medications exist to treat Stimulant Use Disorder or Hallucinogen Use Disorder. Many of the practices to treat Stimulant Use Disorder and Hallucinogen Use Disorder (i.e., Cognitive Behavioral Therapy, Community Reinforcement Approach, Contingency Management, Motivation Interviewing) rely on inpatient and clinical settings with oversight. By adding these disorders to the list of qualifying conditions, patients may seek to resolve their addiction “at home” using cannabis instead of a clinical setting with proper medical oversight. These facts, coupled with the lack of significant clinical research to support the use of cannabis to treat these disorders, weigh in favor of denial of this petition.

Finally, beginning no later than April 1, 2022, adults older than 21 years of age with the above qualifying conditions will have the ability to access medical cannabis and see if it controls their symptoms without requiring a medical cannabis card. If the cannabis is successful in alleviating the symptoms of their condition, then the individual may continue using it on their own accord. Currently, however, there is insufficient data to support that cannabis is an effective treatment for any of these conditions and that its benefits outweigh the potential risks.

For each of the foregoing reasons, I decline to adopt the Advisory Board’s recommendations to add Tobacco Use Disorder, Hallucinogen Use Disorder and Stimulant Use Disorder to the list of medical conditions qualifying individuals for enrollment in the NM Medical Cannabis Program.

**C. Recommendation Regarding an increase in the purchase limits of medical cannabis for qualified patients**

The Medical Cannabis Advisory Board considered a petition to increase the purchase limit recommended, by a vote of 8-1, that NMDOH increase the “adequate supply” three-month possession limit from the current 230 units standard to 420 units. Members of the MCAB expressed that the basis for this recommendation is their belief that a higher purchase limit would address the needs of patients that are applying for “unit increases” (under the medical exception identified in the current rule 7.34.3.9(C) NMAC. The Advisory Board further opined that the increased purchase limit would require a higher supply, which in turn, may help to reduce cost and increase the variety of medical cannabis products and medicinal strains.

Recently, the Medical Cannabis Program has noticed an increase in the number of “unit increase” requests and recommends that the Department raise the patient purchase limit.

I am adopting the Advisory Board’s recommendation that the “adequate supply” purchase limit be increased. In furtherance of this decision, the Department has proposed to amend Department rule 7.34.3.9 NMAC, to increase the adequate supply limit to 425 units (approximately 15 ounces) of dried cannabis material for a three-month period. The Department has also proposed to remove the “medical exception” at 7.34.3.9(C) NMAC in consideration of the fact that 425 units significantly exceeds the 345 units (230 + 115) that is currently allowed for persons with medical exceptions.

The 425-unit proposed adequate supply should be more than sufficient to meet future medical needs of patients and alleviate the need for future unit increases. Sales data submitted by the Licensed Non-Profit Producers for October-December (4<sup>th</sup> quarter) of 2020, showed that patients in the Medical Cannabis Program purchased on average 70.14 units during this three-month period. The proposed amount is 6 times greater than these sale records indicate. In addition, data from a recent study contracted by the New Mexico Department of Health (Cannabis Public Policy Consultants, 2021) showed very similar results. In this study, adult cannabis users from New Mexico reported consuming a total of about 78 grams (units) in a 90-day period.

It is also important to note that, with the passage of the Cannabis Regulation Act (CRA) in the 2021 Special Legislative Session and the imminent arrival of “commercial” cannabis sales (i.e., “adult use” or “recreational” sales) in New Mexico, the “adequate supply” limit will take on lesser significance. Once commercial sales begin, qualified patients in the Medical Cannabis Program will be able to exceed the “adequate supply” 90-day limit by making “commercial” purchases of cannabis. In this way, the adequate supply limit will cease to function as a true acquisition limit. Instead, the adequate supply limit will have two main functions: 1) to identify which cannabis purchases are tax-free, in accordance with the CRA; and 2) to identify the maximum quantity of cannabis that qualified patients and primary caregivers can collectively possess *outside* of a place of residence (given that the adequate supply limit exceeds the two-ounce limit that would otherwise apply outside of one’s residence under the CRA). Pursuant to the CRA, there is no limit on the quantity of cannabis that can be possessed by an individual 21 years and older *inside* that person’s residence.

## **D. Recommendation Regarding Medical Cannabis Therapy for Seizures in Animals**

The Medical Cannabis Advisory Board considered a petition to add Medical Cannabis Therapy for Animals to the list of medical conditions qualifying for enrollment in the New Mexico Medical Cannabis Program. The Advisory Board recommended, by a vote of 8-0, that Medical Cannabis Therapy for Seizures in Animals should not be added to the list of qualifying medical conditions.


The New Mexico Board of Veterinary Medicine was contacted by the Advisory Board to understand what the Veterinary Board allows with regards to the use of cannabis in the treatment animals. The New Mexico Board of Veterinary Medicine stated that it follows the guidelines set forth by the American Veterinary Medical Association.

The American Veterinary Medical Association cites limited peer review and published information, lack of FDA-approval for therapeutic use, labeling concerns, and variable potency that could lead to toxicosis in the animal as reasons it does not authorize the use of cannabis in veterinary medicine.

New Mexico has legalized medical marijuana and recreational marijuana for human use only. Current laws do not authorize veterinarians to prescribe or recommend/certify medical marijuana for dog or cats in the state. If the goal is to allow licensed veterinarians to authorize the use of cannabis for animals, the petitioner should pursue legislative action to adopt laws specific to the regulation of cannabis and cannabis-derived product for veterinary patients. For the reasons stated, I am adopting the Advisory Board's recommendation to decline to add Therapy for Seizures in Animals as a qualifying condition in the Medical Cannabis Program.

## **II. Closing**

I would like to thank the individuals who submitted petitions for consideration. I would also like to thank the Medical Cannabis Advisory Board for its continued work and support of this program.

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David R. Scrase, M.D.  
Acting Cabinet Secretary

Nov 7, 2021 | 2:36 PM MST

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Date

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