



Medical Marijuana Act Oversight Committee

Meeting Minutes

Meeting Date: 02/29/2016

Meeting Location: DHSS, Herman Holloway Campus

Approval: 10/11/2016

Recorded By: Dawn Brubaker

Attendance

Committee Members

Name	Title	Organization	Present
Margaret Rose Henry (committee chair)	Senator	State General Assembly	N
Drewry Fennel (committee co-chair)	Deputy Chief of Staff	Office of the Governor	Y
Stephanie Bolden	Representative	State General Assembly	N
Karyl Rattay	Director	Division of Public Health	Y
Pearl Golden	Patient Cardholder (SC)	Medical Marijuana Program	Y
Elizabeth Cusack	Caregiver Cardholder (NCC)	Medical Marijuana Program	Y
Thomas Shabazz	Patient Cardholder (KC)	Medical Marijuana Program	Y
Jason Silversteen	Physician – Neurologist	Christiana Care	N
Samuel Stubblefield	Physician – Pediatrician	Nemours	Y

Guests (in alphabetical order)

Name	Title	Organization	Present
<i>Administrative Support for the Committee</i>			
Dawn Brubaker	Management Analyst	Office of Medical Marijuana	Y
Paul Hyland	Program Manager	Office of Medical Marijuana	Y
Emily Knearl	Chief	Office of Health and Risk Communication, DPH	Y
Joanna Suder	Attorney	Delaware Department of Justice	Y
<i>Public Guests with Meeting Comments</i>			
Jessica “Jekka” Andreavich	Patient	Medical Marijuana Program	Y
Lip Betley			Y
Todd Boone	Patient	Medical Marijuana Program	Y
Alex Crosier			Y
Maggie Fauver	Employee	Canna Care Docs	Y
Cynthia Ferguson	Executive Director	Delaware NORML	Y
Kim Hoffman	Esquire	Morris James Attorneys at Law	Y
Richard Jester	Caregiver	Medical Marijuana Program	Y
Laura Layfield Sharer			Y
Thomas Maurer			Y
Judith McDonald	Patient	Medical Marijuana Program	Y
Deb McPherson-Nau	Patient / Director	Medical Marijuana Program / Delaware Patient Network	Y
Erica Pukatsch	Employee	Canna Care Docs	Y
<i>Other Public Guests</i>			
Joel Allcock	Senior Vice President	First State Compassion Center	Y
Daniel Andreavich			Y
John Crosier			Y
N.K. Davis			Y
Dale Ervin	Director of Operations	Fraunhofer Center for Molecular Biotechnology, Newark DE	Y
Janie Maedler			Y
Karen Marion			Y
Madonna McKeon			Y

Zoë Patchell	Cannabis Bureau	Y
John Peters		Y
Jim Phillips		Y
Sarah Remp	Cannabis Bureau	Y
Melinda R Thornton		Y

Call to Order

The second meeting of Delaware's Medical Marijuana Act Oversight Committee was called to order by Drewry Fennel, co-chair of the committee, at 5:05 PM on Monday, February 29, 2015, in the chapel conference room of the Herman M. Holloway, Sr. Health and Social Services campus, located at 1901 N. DuPont Hwy, New Castle, DE 19720.

Six of the 9 appointed committee members were present, establishing a quorum. The meeting was audio-recorded for preparation of the minutes by Dawn Brubaker. The slide presentation used for the meeting, including Dr. Rattay's discussion topic, is appended by reference to these minutes and posted on the Medical Marijuana Program website with the Oversight Committee meeting information (<http://dhss.delaware.gov/dhss/dph/hsp/medmarocmtg.html>).

Agenda

Welcome / Chairman's Comments

Drew Fennel, Co-chair

Ms. Fennel welcomed the committee members and guests. She noted that Chairman Henry was not able to attend due to illness. Guest comments are scheduled for the end of the meeting agenda. Present members of the committee introduced themselves briefly.

Adoption of Agenda

Drew Fennel, Co-chair

- No changes were requested for the agenda. No discussion.
- *Motion offered and carried to adopt the agenda as published.*
- Agenda is appended by reference to these minutes, and published on the public calendar.

Discussion/Approval of Minutes from Oct 2015 meeting

Drew Fennel, Co-chair

- No changes were requested for the minutes. No discussion.
- *Motion offered and carried to approve the minutes as distributed.*
- Final minutes are published on the public calendar for the Oct 2015 meeting.

Program Challenges and Modifications – Bona-fide Physician-Patient Relationship

Karyl Rattay, Director DPH and Physician

- Presentation of guidance for documentation of a bona-fide physician-patient relationship

Dr. Rattay mentioned the challenges of this complex program, including a small program staff and recent shortages, media focus and attention, and a significant number of Freedom of Information Act requests. She shared that Division of Public Health (DPH) staff are open to suggestions, act as swiftly as possible when mistakes are made, and do the best job possible to implement the state law as it is written in an effort to serve the public.

One of the specific areas where DPH has been legally challenged involves the introduction of clinics in DE that are established with the purpose of approving patients for marijuana. DPH understands that

there are people who have a difficult time finding physicians who will approve them for medical marijuana; however, the Delaware law states that a bona-fide physician patient relationship must exist, and that a physician cannot see a patient for the sole purpose of certifying for the program.

There have been mistakes made, for a short period of time, in requesting unachievable amounts of medical records from patients. This was fixed as soon as it was known. However, DPH needs to establish that a patient does have a qualifying condition, and that the certifying physician is either the patient's primary care doctor or treating the patient for the qualifying condition.

DPH has discussed this issue and formulated a plan for what is needed to identify a physician-patient relationship that conforms to the law. Dr. Rattay shared the plan via slides which are included in this meetings documentation on the MMP website. The plan will be integrated into regulations.

- Additional discussion included Mr. Shabazz, Dr. Stubblefield, Dr. Rattay, Ms. Cusak, and Paul Hyland that further clarified the reason for, and the contents of, requested documentation from patients whose certification was signed by a doctor who does not have an established relationship with the patient.

Program Update (charts included in presentation slides)

Dawn Brubaker – program analyst

- Cards Issued - Chart showing the number of cards issued by month since program inception
- Debilitating Conditions - Chart showing the percentages of patients with each debilitating condition
- Patient Demographics – Age, gender, and resident county percentages of patient population

New Compassion Centers coming soon

Dawn Brubaker – program analyst

- Details listed on slide presentation
- Question – are all the bidders from Delaware? If, and once, a vendor is selected as the winning bidder, then all board members and employees of the selected vendor will have to submit proof of Delaware residence.
- Request by Mr. Hyland to Ms. Fennel to reach out to potential review team for the proposals.
Action: Ms. Fennel will request the governor's chief of staff to notify department secretaries of the need and to expect contact from the Office of Medical Marijuana regarding the proposal review team.

IT Enterprise Solution for MMP

Dawn Brubaker – program analyst

- RFP to procure a system to electronically handle the card application and approval process
- Procure in time for new compassion centers to use so they won't need a bridge system to start their operations
- Many goals in the system, some of which may not be met in this first system due to technological challenges, such as electronic signature, online payment portal, etc.
- Questions from committee
 - Do other states have such seed to sale programs? Yes, OMM is aware of at least four industry-specific systems on the market being used in other states.
 - Will all the compassion centers be required to have the same system? Ideally yes, but at least be able to interface with the state system – it's early in the process, so details not available yet.
 - What's currently being used for seed to sale in DE? Nothing state-side currently, but the current compassion center is using a code-39 barcode-based system to track their products. The state does not have access to that system for auditing purposes without being on site of the center.
 - Will the new system consider the paperwork that is required for the patient application and the physician's part in the process? Yes, but this is only one of the many technical challenges we face at this early stage, so we're not sure how that will be addressed, but it is being considered.

- Dr. Rattay said that the IT system will allow a patient to patron any center they choose, because the compassion centers will have the ability to see how much the patient has purchased in order to determine what they can sell to the patient and still maintain compliance with the purchase limits in the law.

Testing Operations

Paul Hyland – program manager

OMM is working on the process of testing the product. The original law allowed for the establishment of a third party testing facility, but this portion of the law was not initiated because it would have been cost prohibitive with just one compassion center open. Now that the state is planning to issue two more compassion center licenses, OMM has begun the process of establishing the third-party Safety Compliance Facility. OMM is reviewing information from other states regarding their testing process.

Future Agenda Topics

Drew Fennel, Co-chair

- Status updates to the three RFPs (new compassion centers, third party testing facility, and Information Technology solution)
- Status on use of guidance for establishing a bona-fide physician-patient relationship
- Any additional program challenges
- Ms. Golden requested the committee review the annual renewal process, especially for patients whose conditions will never be cured, such as MS.
 - **Action:** Request for OMM to review other states' rules on this topic.

Discussion Items

Drew Fennel, Co-chair

- Ms. Golden requested that the costs be reduced. Another committee member suggested a sliding scale reduction for each subsequent renewal or something similar.
 - Dr. Rattay said that one of the challenges for the OMM is that the program is supposed to be self-sufficient, and a large number of the patients qualify for a waiver or reduction of the application fee based on the program's low income program. She said the comments were points well taken and noted and would be considered.
 - Ms. Cusack requested a review of other states' product costs. Mr. Hyland said that DE is comparable with NJ's costs, and that other states in the region are not far enough along in their programs to really do comparisons yet.
- Ms. Cusack brought to the floor the topic of packaging, as it was an issue raised at the last meeting in the public comments, and requested more detail at the next meeting regarding these concerns. Mr. Hyland said that the purpose of the opaqueness of the packaging is for preservation of the product. He said that OMM inspections didn't show any evidence of low package weights.
 - **Action:** OMM will prepare additional information for the next meeting regarding this issue.

Public Comments

Drew Fennel, Co-chair

- Guidance from the committee for the public as they offer their comments included the following:
 - Offer suggestions for how to address the concern you are sharing.
 - Put your comments in the form of a statement rather than a question. Time does not allow the committee to open a dialog during the meeting with the public, but they do want to hear your comments and suggestions.
 - To the extent that anyone's comments are redundant to those already voiced, in the interest of time, we are happy to hear that your thoughts were already voiced if that is the case.

- Rich Jester: Shared the story of his father's struggle with cancer before his passing in January 2016. Presented his proposal for changes to the Medical Marijuana Law. Copies of his suggestions were distributed to the committee members and attached to these minutes. His proposed changes included:
 - Terminal Illness as a qualifying condition
 - Allow additional medical professionals to certify a patient for the MMP (such as CNPs and PAs)
 - Allow hospice nurses to serve as caregivers for hospice patients
- Alex Crosier: Why can doctors prescribe drugs such as Xanax and OxyContin to new patients, but not Cannabis, when Cannabis has less side effects and less negative effects on people's health than these other pharmaceuticals do? Will speak with Mr. Hyland after meeting.
- Kim Hoffman: with Morris James Legal Practice – wants to know the very best way to keep informed on the RFP process related to this program. Will speak with Ms. Brubaker after meeting. The new website should be up to date soon.
- Jekka (Jessica Andreavich): There is a lack of options for ingesting the product at the compassion center, mostly only flower is sold; oils aren't available all the time. There is no education for how to take the flower and prepare it to be used in a form that is more economical and more beneficial. She teaches people how to process this product for free, but feels that it should be available at the compassion center for the patients.
- Todd Boone: Patient from Sussex County since 2014. Spent a total of \$13,836.26 (cost of marijuana, tolls and gas to get to the compassion center) for a safe, non-toxic plant that he believes he should have the right as a patient to grow in his home. Recent trip resulted in him not being able to afford to buy the strain he needs in the amount he needed because of the smaller amount packaging prices and no one to available at the center to give permission for a bulk purchase price. Mr. Boone requests that the committee submit an amendment to the law to increase patient purchase amount to allow patients who are making tinctures and edibles at home to purchase the amount they need in larger quantities. He also requests that the law be changed to allow patients to grow at home.
- Laura Layfield Sharer: Shared her frustration with the length of time it took to get her application processed and questioned the need for her doctor of 15 years to provide additional documentation for this program. *OMM note:* This issue was addressed with the guidance that was presented in this meeting regarding the need for additional documentation and the mistake that was made by DPH for a short time in requesting records from every patient. In this case, no additional information would be requested because the physician/patient relationship was clearly established.
- Erica Pukatsch: Works for Canna Care, wanted to clarify Option Three on Dr. Rattay's slide presentation to see if PTSD would be a condition that could be certified by a non-psychiatrist physician if they had a letter from the treating psychiatrist stating the condition. Her question stems from the number of Veterans Association patients that they see for PTSD. *OMM note:* Because the law specifically requires a licensed psychiatrist to certify a patient for the MMP if the qualifying condition is PTSD, no amount of documentation would allow a non-psychiatrist to certify a PTSD patient.
- Lip Betly: Use cannabis for mental health issues. Cannabis is a great alternative treatment for mental health without the risk of suicide and addiction accompanying anti-depressants. Would like to see the mental health conditions expanded. And would like to see the program less cost prohibitive.
- Thomas Maurer – Long standing negative stigma toward marijuana has not changed and he doesn't see where the medical marijuana program is in this regard. There are waves of negativity and criticism surrounding the patients and doctors. Believes that public is getting limited information about the goals and actions of the program. Requests more concrete information to be shared.
- Debra McPherson-Nau – Director of Delaware Patient Network (DPN). Requested a meeting with Mr. Hyland. Defended a cancer patient who requires cannabis oils that are cost prohibitive

(\$100/gram every day for six months to treat her cancer). Defended a patient addicted to prescription drugs, who cured his problem with black market cannabis, was denied when he first applied for the MMP; has since received his card. Request patients should be able to try cannabis first, not last, before pharmaceuticals. The law should be changed that requires patients to try pills first before cannabis; cannabis is much safer. Forcing the patients to go to a single dispensary rather than giving them a choice is not a good idea; First State needs competition to drive prices down. Requests a representative from the committee or the program attend the monthly DPN meetings; DPN also needs a location for their meetings as they grow and funding. Requests support in her effort with the DPN; she requests free medicine from First State and reduced fees from doctors for patients who are financially strained, but those calls take time and effort.

- Jude McDonald – spent over \$5,000 in 6 months at First State Compassion Center, grew own marijuana for over 10 years and didn't spent that much. Packaging is a problem here in DE. Requests ability to grow marijuana at home.
- Maggie Fauver – A large percentage of addicts start out as pain management patients. Very few options are available for these patients. Science proves that cannabis is a good option. Requests the state to actively work toward making marijuana more accessible for pain management patients. Suggests review and edit required documentation and relationship proof for these patients.
- Cynthia McPherson – Agreed with previous comments. Supports home grown. Application process, with additional records, is tedious – requests review and edit of application forms.

Closing Comments

Drew Fennel, Co-chair

Ms. Fennel thanked the committee members, and especially the public, for attending. It's clear by the thoughtful comments offered that many of the public members are using their own time and talent making sure that physician and consumer education happens. It is a big change for medical providers and others to move in a different direction regarding this subject. The program has spent a lot of time in outreach as well helping with this effort.

Next Meeting

Drew Fennel, Co-chair

- Next meeting scheduled for October 11, 2016 at 5:30pm. Location to be determined.

Adjournment

Meeting Schedule End: 7:00 PM

Meeting Actual End: 6:55 PM

Post Meeting Action Items

Action	Assigned To	Deadline
Prepare information on packaging issue	Office of Medical Marijuana	Before next meeting
Review other states' renewal application rules, especially regarding medical conditions that are not curable, such as MS	Office of Medical Marijuana	Before next meeting

Decisions Made

- Approved minutes from October 2015 meeting