

Medical Cannabis Advisory Board Meeting Minutes

December 9, 2020

I. Introductory Remarks and Call to Order

Stephanie Richmond PA-C called to order the regular meeting of the Medical Cannabis Advisory Board (MCAB) at 9:03 a.m. on December 9, 2020, using a WebEx Events Platform. General Instructions were given to panelists and attendees.

II. Roll call

Stephanie Richmond conducted a roll call. The following persons were present:

Ariele Bauers	<u>present</u>
Kenneth Corazza	<u>present</u>
Jean-Paul Dedam	<u>present</u>
Rachel Goodman	(not present)
Courtney Marquez	<u>present</u>
Allen Plymale	(arrived late)
Davin Quinn	<u>present</u>
Stephanie Richmond	<u>present</u>
Traci White	<u>present</u>

Seven of nine Medical Cannabis Advisory Board Members were present at this time, so quorum was met, and the meeting started.

III. Medical Cannabis Program (MCP) Update

Dr. Dominick Zurlo provided the following update with regards to the Medical Cannabis Program. Dr. Zurlo commented on how Covid-19 had changed the lives of all New Mexicans and how the New Mexico Department of Health and the Medical Cannabis Program, along with the many Licensed Non-profit Producers, Manufacturers and Laboratories have been working to provide services in the best ways possible. He followed these comments with a statistical update and following observation.

Patient statistics:

November 30, 2019 there were 78,810 patients enrolled in the program.
November 30, 2020, there were 101,770 patients enrolled in the program.

Supply (for the quarter ending September 30, 2020):

1. Plants licensed to grow: 51,250
2. Mature plants in production: 30,264
3. Plants harvested during the quarter: 21,279 (40% increase over 3Q 2019 when 15,145 plants were harvested)

This indicated there is the possibility for the Licensed Non-Profit Producers to grow approximately 21,000 more plants than are currently in production. This is the same amount of plants harvested during the quarter, and when grown, would represent an approximate increase of 69% over the current production.

With this potential yet to be realized, the Licensed Non-Profit Producers have reported as of the end of the third quarter (September 30, 2020), there was a total of 5,774,625 grams of Flower and Bud in stock and an additional 3,617,266 units of Cannabis derived products.

As a comparison for the amount of medical cannabis in stock, at the end of the third quarter in 2019, there was a total of 3,888,271 grams of Flower and Bud in stock (Cannabis Derived Products were not accounted in this amount). The amount of medical cannabis currently in-stock represents a 48.5% increase (1,886,354 grams) over the same time-period last year in just flower and bud.

While state offices have been closed to the public since the implementation of the Public Health Orders due to the Covid-19 pandemic, the program has continued to process applications and meet the statutory requirements of 30 days for approving or denying a completed application and mailing the card within an additional 5 days.

Accordingly, the License and Compliance section has continued work through the pandemic to re-license the Licensed Non-Profit Producers, review amendments, and conduct site visits via virtual means - and when safe and appropriate to do so, in-person.

In addition, the MCP has been working with BioTrack to implement a patient portal where patients and providers will be able to submit applications online. This has been delayed due to the impact of Covid-19 but is anticipated to be available to patients and providers soon.

Dr. Zurlo concluded his update by thanking the Board Members and those individuals participating in the program.

IV. Review of Minutes and Summary of Votes from November 16, 2020, MCAB Meeting

Stephanie Richmond PA-C, Chair, reviewed the vote tallies from the previous meeting to establish a clear vote record and to provide a summary of those items adopted by the Advisory Board. She asked that each Board member vote in favor “aye” of each item or in opposition “no” when called upon to vote.

The first item of business from the last meeting was the election of a new chairperson for the MCAB. After a self-nomination by Stephanie Richmond was made, a motion to second nomination for MCAB Chair was provided by Ariele Bauers with no one in opposition. A roll call vote was taken at this time to clarify the intent of the MCAB members.

Arielle Bauers	<u>aye</u>
Kenneth Corazza	<u>aye</u>
Jean-Paul Dedam	<u>aye</u>
Rachel Goodman	(absent)
Courtney Marquez	<u>aye</u>
Allen Plymale	<u>(not yet present)</u>
Davin Quinn	<u>aye</u>
Stephanie Richmond	<u>aye</u>
Traci White	<u>aye</u>

The second item of business from the last meeting was the election of an alternate chairperson. After a self-nomination was made by Jean-Paul Dedam for the role of alternate chairperson, Stephanie Richmond seconded the motion to nominate Jean-Paul Dedam with no one in opposition. A roll call vote was taken at this time to clarify the intent of the MCAB members.

Arielle Bauers	<u>aye</u>
Kenneth Corazza	<u>aye</u>
Jean-Paul Dedam	<u>aye</u>
Rachel Goodman	(absent)
Courtney Marquez	<u>aye</u>

Allen Plymale (not yet present)
Davin Quinn aye
Stephanie Richmond aye
Traci White aye

The next item of business was to address the proposed rule change as it pertains to the issue of Reciprocity. After much deliberation with regards to the amount of medical cannabis reciprocal patients would have access, the determination was made to continue discussion of this item later in the meeting once the petitions dealing with adequate supply and purchase limits had been discussed. Running short on time, this agenda item was tabled without opposition. A vote was taken at this time to clarify that this was the intent of the MCAB.

Ariele Bauers aye
Kenneth Corazza aye
Jean-Paul Dedam aye
Rachel Goodman (absent)
Courtney Marquez aye
Allen Plymale (not yet present)
Davin Quinn aye
Stephanie Richmond aye
Traci White aye

The next business item discussed was petition 2019-008 which sought to add ADHD, ADD, Anxiety Disorder, and Tourette’s Syndrome to the list of qualifying Medical Conditions eligible under the Medical Cannabis Program. A motion was made to modify the petition for “adults only”. This modification was seconded and the petition to add ADHD, ADD, Anxiety Disorder and Tourette’s Syndrome with the modification to use for “adults only” to the list of qualifying conditions was put before the Board for a vote. Motion passed with a unanimous vote.

The next business item discussed was petition 2019-009 which sought to add Substance Use Disorder to the list of qualifying Medical Conditions eligible under the Medical Cannabis Program. A motion was made to modify the petition and limit the use of medical cannabis for the following three substance use disorders only: Tobacco Use

Disorder, Stimulant Use Disorder, and Hallucinogen Use Disorder. This modification was seconded and the petition with the modification to add Tobacco Use Disorder, Stimulant Use Disorder and Hallucinogen Use Disorder to the list of qualifying conditions was put before the Board for a vote. Motion passed with a unanimous vote.

The next petition discussed was petition 2019-10 which sought to add the use of cannabis to treat Seizures in Animals. The motion was made to table the petition until a further information from the Veterinary Board was obtained. This motion was seconded, and MCAB chose to table this petition by a unanimous vote

The next petition discussed was petition 2020-002 which sought to raise patient purchase limits to 15 ounces over a ninety 90-day period. The motion was made to approve this petition and that motion was seconded. This petition was approved with the following votes:

Ariele Bauers	<u>aye</u>
Kenneth Corazza	<u>no</u>
Jean-Paul Dedam	<u>aye</u>
Rachel Goodman	<u>aye</u>
Courtney Marquez	<u>aye</u>
Allen Plymale	<u>aye</u>
Davin Quinn	<u>aye</u>
Stephanie Richmond	<u>aye</u>
Traci White	<u>aye</u>

The next petition discussed was petition 2020-001 which sought to alter the current regulations that limit plant count. A motion was made to table this petition until the next meeting and the motion was seconded. The MCAB chose to table this petition with a unanimous vote.

A roll call vote was held to approve the minutes and the minutes were approved by a unanimous vote.

V. Review of Proposed Reciprocity Rule Change

Dr. Dominick Zurlo also presented information with regards to the upcoming Rules Hearing to discussed proposed Rule Changes proposed by the NMDOH as it pertains to Reciprocal Patients. Dr. Zurlo made clear that the NMDOH wants to ensure that

residents of the state are seeking the medical attention needed to be enrolled in the program while under the medical care of providers in New Mexico. He added that... “the proposed rules help to ensure this is occurring and thus help to improve the health outcomes of New Mexicans enrolled in the program. This is important, so medical providers can ensure patient are not experiencing negative outcomes and/or masking more serious medical situations by temporary relief of symptoms by use on medical cannabis.”

Dr. Zurlo summarized that the proposed amendment would seek do the following:

- 1) Clarify the residency requirements of an individual who is now a resident of NM may participate in the reciprocal participant program provided the reciprocal participants place of residence is consistent with the place of enrollment.
- 2) Ensure that the purpose of reciprocity which is to allow individuals who travel from their home state to obtain medical cannabis during their visit can do so
- 3) When purchasing medical cannabis, the individual would need to verify the person is actually participating in the medical cannabis program in which they are enrolled.
- 4) Clarify the exception for New Mexico residents who are members of a New Mexico Indian nation, tribe or pueblo medical cannabis program and their ability to participate as a reciprocal participant in the NMDOH Medical Cannabis Program
- 5) Modify the reciprocal limit to 230 units for one year, which would allow for individuals traveling to New Mexico have access to their medicine during their travels through the state.
- 6) Modify the requirement and requires the LNPP selling an individual medical cannabis as a reciprocal participant to verify the proof of authorization with individuals place of residence, ensuring the individual meets the qualifications of the reciprocal program and to record this information in the registration and verification tracking system.
- 7) Ensure the reciprocal participant is enrolled in a medical cannabis program from the originating state or governmental entity by providing proof from the governmental agency of the participant’s enrollment. This helps to ensure the medical practitioners in good standing with their licensing body and that the reciprocal participant has met the eligibility requirements of the originating jurisdiction

Dominick Zurlo completed his comments thanking the Board for hearing the proposed rule change.

Allen Plymale joined the meeting at this time and was present for all subsequent votes.

Stephanie Richmond made a motion to un-table the item, motion seconded by JP Dedam.

Roll call vote was taken and item was un-tabled by a unanimous vote.

Stephanie Richmond began discussion by agreeing that a resident of New Mexico should participate in the New Mexico Medical Cannabis Program as a qualified patient and not be eligible to be registered as a reciprocal participant. This clarification would ensure New Mexicans are seeing medical providers in the state and avoids “double dipping”.

JP Dedam agreed with this clarification but was concerned about what items of identification would be required for a person to prove they are a resident in New Mexico and if this requirement placed an undue burden on the patient.

Dominick Zurlo responded that New Mexicans would simply need to show New Mexicans Driver’s License or government issued ID and that an out-of-state participant would also show a government issued state ID to establish where they reside. This is the same requirement placed upon individuals seeking to purchase alcohol, so not deemed onerous

JP Dedam concerned about snow bird patient from another state who plans to reside in New Mexico for 9 months of the year.

Dominick Zurlo states the according to current regulations, that after 6 months of residing in New Mexico and individual is considered a resident, so that a patient residing in New Mexico for greater than 6 months should seek to obtain a New Mexico Driver’s License

This was confirmed by Chris Woodward.

Ariele Bauers raised the concern that if patients in other states do not have to verify residency, then was it fair to require reciprocal participants to verify residency in order to participate in the New Mexico Medical Cannabis Program.

Dominick Zurlo confirmed that it was simply an issue of equity given that Qualified New Mexico Patients currently must verify their residency and therefore, so should out-of-state reciprocal participants.

Davin Quinn voiced support for the proposed language

Stephanie Richmond also in support of residency requirements and agreed that New Mexicans should apply to become a “Qualified Patient” of the New Mexico Program and not as a reciprocal participant.

Stephanie Richmond raised concerns over section *B* which addresses the amount of cannabis that a reciprocal participant has access to, as this was a topic of much discussion during last meeting.

Examples of purchase limits in other states discussed.

Counsel sought from Chris Woodward with regards to how to vote for the many parts of the proposed rule change. Recommendation made to segment each portion of the rule and vote for each rule segment in the affirmative.

Davin Quinn also agrees a motion for each modification, a second for each modification, a vote for each modification and then a motion for the fully modified document, a second, and a vote on the fully modified document

A motion was made by Stephanie Richmond to adopt the following language as it relates to the rule change, *“A qualified patient may not be registered or participate as a reciprocal participant in the New Mexico medical cannabis program”*. This motion was seconded by Traci White. A vote was then had held to approve this portion of the rule change with a **unanimous vote**

The attention of the Board was then directed to the proposed language defining the *Residency Requirements, A (3)* for Non-residents and New Mexico residents. Stephanie Richmond motioned to adopt the proposed language and this motion was seconded by Ariele Bauers. The Board then voted on the proposed language and approved the new residency requirements as proposed in the rule change amendment by a **unanimous vote**.

Next the Board discussed different options on how to address the *Reciprocal limit, B*. The Board discussed at length on how to modify this language. Several options were discussed amongst the Board ranging from changing the amount of accessible medical cannabis to increasing the timeframe during which a reciprocal participant may access medical cannabis. A motion was finally made to adopt the following language as *“A reciprocal participant may collectively possess within any 6-month period a quantity of usable cannabis that is consist with the limits allowed to the qualified patient.”*

Arielle Bauers raised the issue about extension letters and how this would be incorporated into the Boards recommendation and if the language had to be exact.

Dominick Zurlo reminded the Board that exact language not needed for a recommendation, but more importantly that the “intent” of the Board be apparent.

Chris Woodward counseled that if the Board members were “on the same page” and that the intent of the Board was easily understandable, that the specific language of the recommendation could be clarified at a later time.

Dominick Zurlo confirmed that the Medical Cannabis Program would use language that clearly would demonstrate the intent of the Board.

“A reciprocal participant may collectively possess within any 6-month period a quantity of usable cannabis that is consist with the limits allowed to the qualified patient and that the reciprocal participant may have an appeal process to file for a 6-month extension.”

A motion was made by Stephanie Richmond to adopt the proposed modification and it was seconded by Kenneth Corazza.

A vote was taken to adopt the proposed language modification and it was approved by a **unanimous vote**.

The next line item discussed by the Board was *C (2)* which required the proof of authorization match from another state match the reciprocal participant's state of residence. A motion was made by Stephanie Richmond to adopt the language of *C (2)* in its current form and this motion was seconded by Davin Quinn.

A vote was taken to adopt the proposed language in section *C (2)* without modification and it was approved by a **unanimous vote**.

A motion was made by Stephanie Richmond to adopt the proposed language in section *C (4)* through *C (7)* without modification. This motion was seconded by Ariele Bauers.

A vote was taken to adopt the proposed language in sections *C (4)* through *C (7)* without modification and it was approved by a **unanimous vote**.

Discussion about what constitutes *Proof of Authorization, (D)* then ensued with concerns raised by Ariele Bauers about what role a letter from a provider might have as it relates to proof of authorization and how such a letter would be verified. The question was raised if requiring an actual document from the jurisdiction responsible for enrolling individuals in their state sanctioned medical cannabis program placed any undue burden on the reciprocal participant.

Davin Quinn suggested that the proposed language offered a “good balance” between what is required by the Medical Cannabis Program and what a patient should expect to provide.

A motion was made by Stephanie Richmond to adopt the language as it relates to Proof of Authorization without modification. The motion was seconded by Davin Quinn and approved by a **unanimous vote**.

In summary, the Medical Cannabis Advisory Board approved each part of the proposed rule change with the exception of modifying the language establishing a *Reciprocal Limit B*. The MCAB wanted to modify the definition of the *Reciprocal Limit B* to include the following:

“A reciprocal participant may collectively possess within any 6-month period a quantity of usable cannabis that is consist with the limits allowed to the qualified patient and that the reciprocal participant may have an appeal process to file for a 6-month extension.”

VI. Review of Petitions

Petition 2019-010 Add Medical Cannabis Therapy for Seizures in Animals

A motion was made to un-table the petition by JP Dedam and seconded by Ariele Bauers. A vote was held, and the petition was un-tabled by unanimous vote. Discussion ensued with Stephanie Richmond sharing the information provided by the New Mexico Veterinary Board with regards to the petition. Concerns over efficacy, research, labeling, FDA approval, and legal jeopardy were raised. The Board was appreciative of the opportunity to consider the petition, but it was made clear by multiple members of the MCAB that separate Medical and Veterinary Boards exist for a reason and that the petition lies outside the jurisdiction of the Medical Cannabis Advisory Board.

Stephanie Richmond made a motion to **NOT** approve the petition and this motion was seconded by Davin Quinn. A vote was held, and the petition was denied by a **unanimous vote**.

Petition 2020-001 MCAB Petition in Connection with the determination of an adequate Supply

A motion was made to un-table the petition by Ariele Bauers and seconded by Stephanie Richmond. A vote was held, and the petition was un-tabled by a unanimous vote. Concerns raised at the previous meeting were reviewed and then discussion was opened up to the floor.

A request to clarify what the petition was seeking was made by Dr. Davin Quinn, as it was unclear which limits the petitioner was seeking to remove.

A short summary of the petition was read in which it became apparent that the petition was seeking either an “immediate suspension” of the plant count limit **or** “substantially raising” the current plant count limit.

Arielle Bauers was in favor of an increase in the number of plants as this may reduce the cost of medical cannabis to patients and increase variety.

Dr. Quinn raised concerns that suspending all limits may risk product safety and suggested a more gradual approach to increasing plant count.

Stephanie Richmond asked the MCP if it could address the discrepancies between the numbers reported by the petitioner and those provided by the MCP

Davin Quinn acknowledges that despite the discrepancies, a middle ground approach would be best.

Ariele Bauers suggested that natural barriers to cannabis growth already creates a type of limit.

Stephanie Richmond asked for clarification as to why the plant count limit had been rejected in years past.

Unable to speak to the action of a previous administration, Dr. Zurlo did provide an update to the most recent plant count limit increase and the one upcoming. He also noted that despite the most recent plant count increase that there were over 20,000 plants which were not grown under the current regulations and as it relates to adequate supply, over 5 million grams of smokable cannabis still available for sale. Given the sheer amount of available cannabis and recent decrease in cost per plant for producers, it was unclear why prices remain so high. Dr. Zurlo stated that the MCP is still considering other measures to reduce the cost to patients.

Ariele Bauers asked Dr. Zurlo any insights as to why the cost of medicals cannabis remained so high despite the excess of supply.

Dr. Zurlo did not have an explanation for this, but with the potential of “adult-use” cannabis

Ariel Bauers voiced concerns over how the MCP was addressing a diversity of strains

Ariele Bauers asked if the MCP has an equation or process when determining plant limit increases.

Dr. Zurlo informed the MCAB as to what factors go into determining the current plant count limit.

JP Dedam raised the issues of both cost and lack of access to medical strains of cannabis as being barriers for patients. He did not see how this petition addressed those two concerns, given that previous plant limit increases had little impact on cost and had not increased access to medical grade cannabis. Dr. Dedam was critical of the cannabis industry for focusing on plants strains geared more for the “recreational” market as opposed to medicinal strains that would be more therapeutic. He again failed to see how this petition 1) helps to reduce cost and 2) how it addressed a lack of cannabis strains that are more medicinal

Ariele Bauers echoed that her biggest concerns were also “cost” and “variety”.

Stephanie Richmond introduced her concerns that given the MCAB’s recent approval to increase the patient purchase limit, that some mechanism must exist to make sure there is an adequate supply to support this recommendation.

Davin Quinn also reminded the MCAB that a number of new qualifying conditions were also approved by the Board during its last meeting and that this too may impact the future supply of medical cannabis.

Davin Quinn suggested that the MCAB consider modifying the petition to focus on increasing the plant count limit to take into consideration the recent recommendations of the MCAB without completely abolish the plant count limit.

Ariele Bauers agreed with the suggestion but wanted to know if there were some way ensure lower cost and increased variety could be tied to a plant increase.

Stephanie stated that these concerns could be addressed in the Board's recommendations to the Secretary of Health, but unsure how the issues of cost and variety can be addressed given the scope of this specific petition

JP Dedam again states his concerns about variety and strongly advocates that this issue be addressed in the recommendations. Dr. Dedam goes on to suggest that perhaps the best way to increase the variety of plant strains is to increase the number of growers and not just plant count.

Ariele Bauers agrees with this idea and suggests that maybe suspending the license limit on the number of growers would be a useful way in promoting greater variety of medical cannabis and also address the issue of social equity.

Stephanie Richmond made a motion to adopt only the part of the petition that seeks to substantially raise the current plant count limit, but not suspend the limit completely.

Davin Quinn seconded this motion.

A vote was held and the MCAB unanimously approved to recommend substantially raising the current plant count limit as a way to maintain an adequate supply.

VII. Public Comment

Stephanie Richmond instructed attendees how public comments would be made and how attendees unable to make a public comment at this time could provide a comment at the MCP website.

Duke Rodriguez representing Ultra Health thanked the Advisory Board for approving the petition to substantially raise the plant count limit, but voiced frustration at NMDOH data points which he believes are “wrong” and NMDOH policies which keep cannabis prices high and the number of available medical strains low.

Ginger Grider representing the New Mexico Medical Patient’s Advocacy Alliance and wanted to thank the MCAB for their efforts in hearing the petitions and approving those items which they felt would help those patients who use medical cannabis.

Tiffany Wittkofsky was very supportive of the idea of having more producers but was unable to finish her statement due to technical difficulties.

Kylie Safa wanted to raise a concern about how the “6-month modification” voted on by the MCAB, would be implemented. Kylie also wanted to express her support for the Board Member who suggested granting reciprocal participants access to the same amount of medical cannabis as is granted to qualified patients. Kylie further shared her interpretation of what the “proof of authorization” requirement meant.

Ben Lewinger from the New Mexico Cannabis Chamber of Commerce also wanted to extend a thank you to the MCP and the MCAB. Ben recommended that the MCAB speak to the Chamber with regards to understand those policies that have led to the elevated price of Cannabis when compared to other states.

Tiffany Wittkofsky representing the New Mexico Cannabis Collective was able to rejoin the meeting. Tiffany wanted to voice her support of utilizing microbusinesses as a way to increase the number of growers in the state, thereby increasing the numbers of strains and decreasing the price of cannabis for the patient. Tiffany advocated for individuals with a PPL to have access to two more plants.

Scott Ransom wanted to propose an “emergency license” for those patients with a terminal illness so that they could obtain “cost free” access to medical cannabis. Scott shared his concerns that removing plant count limits would only lead to for-profit monopolies instead of a non-profit system which would more likely be able to offer “cost free” cannabis to patients in this “emergency group”.

There were no more public comments.

VIII. Adjournment

Stephanie Richmond once again encouraged those individuals unable to make a public comment during the meeting that they would have the opportunity to offer public comment for the next 48 hours at the MCP web address. Stephanie also advised attendees to pay attention to the MCP web page for updates about the next public hearing for the MCAB.

Stephanie Richmond PA-C adjourned the meeting at 11:52 a.m.

Minutes submitted by: Gary J. French, MD/ Medical Director NMDOH MCP