



MEDICAL CANNABIS LEGISLATIVE OVERSIGHT WORKING GROUP
ACT 230, HB 2707, SESSION LAWS OF HAWAII 2017

Meeting Minutes

DATE: Wednesday, October 25, 2017
TIME: 1:00 - 3:00 pm
PLACE: Conference Room 329
State Capitol
415 South Beretania Street

Working Group Members & Presenters in Attendance:

Senator Rosalyn Baker, Co-Chair
Senator Will Espero
Representative Della Au Belatti, on behalf of Co-Chair Representative John Mizuno
Representative Joy San Buenaventura
Carl Bergquist, Drug Policy Forum of Hawai'i
John-Paul Bingham, University of Hawai'i, College of Tropical Agriculture
Christopher Garth, Executive Director, Hawai'i Dispensary Alliance
Wendy Gibson, Drug Policy Forum of Hawai'i/Medical Cannabis Coalition of Hawai'i (alt.)
Richard Ha, Lau Ola
Karen Kahikina, Department of Transportation, Highway Safety (alt.)
Stacy Kracher, APRN/RX
Alyssa, "Ally" Park, President, Clinical Labs of Hawai'i
Keith Ridley, Hawai'i DOH, Office of Healthcare Assurance

Working Group Members & Presenters Participating via Teleconference:

Patricia Wilson, Honolulu Police Department
Shana Metsch, Parent of Qualifying Patient Under the Age of 10

I. Introduction of Members

Welcoming remarks made by Jose Barzola followed by brief introductions of Working Group members present in person and by phone.

II. Review of Meeting Minutes

September 20, 2017, meeting minutes approved with corrections, replacing Jari Sugano with Shana Metsch as the Parent of a Qualifying Patient Under the Age of 10.

III. Department of Health Update

DOH representative (Keith Ridley) presented an update on multiple aspects of the DOH Medical Marijuana Program. Updated DOH report to be added to Act 230 website at <http://www.publicpolicycenter.hawaii.edu/projects-programs/act230.html>

Questions & Answers from Working Group

Q: Do we have laboratories on all of the islands with operating dispensaries?

A: For Maui and Oahu, yes. We do not yet have a lab on Kaua`i or Hawai`i Island.

Q: Is it anticipated that by the time they are ready to go to retail on Kaua`i there will be a lab there?

A: That's what we are hoping for a third lab on Hawai`i Island, but until now there is nothing on Kaua`i.

Q: What about concentrates, tinctures, etc.?

A: Pharm Labs will be submitting tests and studies for us to review.

Q: But that is the only one looking at something?

A: (Dr. Wanda Chang) Steep Hill has provisional licensures for tinctures, concentrates and flower. They have been certified to do the testing, I don't know if they have received samples. Steep Hill is certified and they take it from there.

Q: If someone goes into a retail establishment and sees a tincture or a lozenge or whatever, they know it has been tested, correct?

A: Yes.

Q: (To Brian Goldstein – from Noa Botanicals) Are you selling tinctures of concentrates?

A: Yes, every package that is being sold has the lab that tested it on the label.

Q: In the next report will you please include types of products in addition to plant inventory?

A: Yes.

Q: I guess for the dispensaries using or selling other types of products, are you getting any feedback?

A: (Brian Goldstein) We have had concentrates and we are introducing tinctures and infused organic olive oil for cooking next week. There is a great deal of interest in non-smoked type products and the feedback has been very good.

Q: Are any of the laboratories testing products from patients?

A: Yes, Steep Hill has been testing products from patients and caregivers, and I believe they said that over 90% tested positive for pesticides.

Q: If that is the case, is there a way to advise people to avoid using pesticides?

A: Growing cannabis is challenging in Hawai`i because of the humidity, and the easiest way to deal with it is pesticides.

Q: Last month we got pretty interesting stats on sales and weights. Is that something DOH can provide us with in the future?

A: Yes.

Q: I'm sorry you've lost Peggy Leong from the dispensary program. Are you going to be able to get someone in place for the program?

A: We cannot determine that now.

Q: It might be useful to look within other state agencies for comparable wait times. Is 6 days okay? Is this a comparable time period compared to other applications?

A: I'll make that comparison and see what time other applications take.

Q: Is there going to be an exception for hospice patients?

A: We do special screening for hospice and cancer patients, but I don't know that we keep specific data for those patients. If patient physicians contact us via email, I go through that daily and if anyone asks for an expedited card, I expedite that. I do not get many email requests, but I do check it daily.

Q: I wonder if you track the turnaround time for patients whose applications are kicked back because of errors. It seems to me for patients with errors it takes a couple of weeks or longer. Is it possible to track the turnaround time for patients with errors?

A: I believe so.

Q: If you could include that in the cross departmental comparison would be helpful.

Comment: I don't know that the cross comparison is that simple or that useful for the DOH to do.

Q: Is there a similar application process for anything else?

A: The first thing that comes to mind is developmental disabilities or records, like death records.

Q: We have about two months where certified labs have been getting samples transported with no reported problems, correct?

A: Correct.

Q: Would the department be open to lifting restrictions and allowing for any kind of transport?

A: I think we would need to include our attorneys in that decision. I cannot conclude that transport for testing would be a problem but it might be more tricky and I would prefer to have legal counsel.

Q: I agree with the premise, for testing purposes, but if we are going to lift restrictions we should take into account weight and amounts, because we do not want to set off any type of alarm. I'm concerned with a caregiver sending off multiple batches.

A: They cannot currently. That's not allowed.

Q: I do not want a weight or an amount that will trigger DEA alarms. I'm just voicing my concern.

A: Just to clarify, patients and caregivers are not allowed to transport across islands to labs. The statute as is only allows transportation between dispensaries and labs.

Q: I have a daughter who takes cannabis for her epilepsy, my question is how many samples have shown trace levels of illegal substances and what happens to those samples?

A: Batches that do not pass the test cannot be sold.

Q: How many batches have been destroyed and what are the reasons for the failures?

A: I don't know. I will have to get that to you.

IV. Subcommittee Breakout Discussions & Report Back to Working Group

A. Patient Issues: (Carl Bergquist)

- Thanks to members of patient subcommittee for meeting several times. Subcommittee will submit a report in November with recommendations for the Working Group to vote on. Recommending new statutory language, in these areas:
 - i. Regarding access to patients for medical cannabis who do not have a current, valid ID. For people who have physical or cognitive limitations, we need to find ways to help them.
 - ii. We are looking at the issue of patients or caregivers traveling with the medicine for use. Currently there is a prohibition on traveling and we have been getting information from other states. We are looking at what they are doing in Alaska.
 - iii. Further discrimination by landlords. There continues to be issues, particularly in public housing. We want to see if the Hawai'i Public Housing Authority can come out with recommendations.
 - iv. Employees. More recent case law has been in support of employee protections. There are some jobs where you cannot
 - v. Insurance, looking at helping pay for medical cannabis.
 - vi. We need to continue to educate law enforcement on the presence of THC in the blood and how that is not directly linked to impairment, and that it is very different from alcohol. Because you have THC in your system does not directly link to impairment.
 - vii. Adding new debilitating qualifying conditions. Its time consuming for patients, physicians, and for me, as an advocate, to get that paperwork in. There is a reason why we have only 2 debilitating conditions added.

B. Products: (Mike Takano not present, but recommendations provided.) Recommendations available on the Act 230 website.

C. Licensing: (Representative San Buenaventura) Subcommittee report available on the Act 230 website.

Q: Is the notion of separate, horizontal production licenses, something the subcommittee is letting go of?

A: No, it's something we are still considering. That is what the second working group is for, and it's not horizontal, it's a modified vertical system similar to Colorado's.

D. Reciprocity: (Representative Belatti)

- For patients traveling into Hawai'i, if they are registered in other states, the subcommittee recommends that the DOH in Hawai'i respects the home doctor's determination.
- Verification can be done of the home doctor by a third party. The State may need to have a technical law change, so the Committee will look at the statute to make a formal recommendation.
- The subcommittee also discussed whether there was a need to look at a pathway for international patients as well.

E. Education: (Stacey Kracher, APRN/RX)

- The subcommittee has been meeting over the year, and have started by identifying key stakeholders to provide education. Our stakeholder list was about 27, and we sent out a survey to stakeholders. We only got 3 responses back. We believe there remains a high level of stigma.
- The subcommittee is thinking of increasing funding for DOH to educate the public and stakeholders. We also want to make recommendations related to training and education. We want education to come in different forms for different stakeholders. We need to discern what type of education is needed and develop a strategic plan. We feel offering CE's and CEU's will increase education.
- One working group member commented that DOH is an excellent educator, but a dispensary is on par with that. The dispensaries could provide a great venue to educate people.
- A public member commented that Hawai'i is the only state that requires everyone that enters to be fingerprinted and background checked. Members of the dispensary industry would like to change that so that they can invite bankers, insurers, etc. to come in and understand that this is a professional enterprise. Dispensaries would like to educate, demystify and destigmatize medical marijuana.

V. Questions and Comments from Public

Q: As a patient advocate, we are looking for a state license similar to the state license for cannabis earlier. I would like to suggest marriage license officiants. Our patients are getting their cards very quickly. How does it look for the GAD? Generalized Anxiety Disorder?

A: No progress.

Q: If flower has a failed test can it be manufactured or does the product have to be thrown away?

A: If the dry flour results in a failed test, and in the manufacturing process that problem is fixed and the new products are re-tested without problems, they can be used.

A: The labs do not certify the add-in items. Labs only test the products provided.

Comment: There is nothing in the statute saying edibles are not legal. The statute says oils are allowed, and olive oil is an edible. And the final product is tested.

Q: So, if there is an issue with microbials and the product is manufactured. Would patients be comfortable with that?

A: Manufactured products are tested as well.

Comment: Pesticides and heavy metals have not been issues thus far for the dispensaries. Yeast, mold and moisture have been difficult. Here, the industry is coming close to 15% limit for moisture because of the climate here in Hawaii. Less water in a product would be a better measure. Yeast and mold are best dealt with using heat.

- Q: A working group member asked a representative from a lab whether patients have been going to them for testing.
- A: There's always interesting results. Most all local samples are packed with pesticides, 99% have yeast and mold. To do our validation study we had to find a clean sample and we found one person who had exceptionally clean marijuana.
- Q: What about arsenic levels in patients' products?
- A: We have not seen any arsenic levels.
- Q: Are there people growing organically?
- A: Yes, there are people who are growing organically and very clean.
- Q: When patients bring in cannabis and it comes up high in pesticides does the lab provide them with education?
- A: Yes, we do. We give them a follow up call and tell them about yeast and mold and pesticides. Generally, the public is just starting to grasp this process and we are trying to make people comfortable. \$50 is potency, for terpenes its \$25. We ask for 2 grams for testing. Most people do not want to test for pesticides because it is expensive. Most people want to test for potency so they can show their people what they have.
- Q: Are you considering going to outer islands?
- A: If the market opens up and develops we would consider that.
- Q: It's in the rules for samples to be returned to labs, but we don't have a system in Bio Track for that to happen.
- A: With concentrates, they are very valuable and we want them back if they test positive.
- Q: A lab representative stated that we have not been told how long we are supposed to keep the samples. We are also expected to keep an additional 15 grams per batch for testing.
- A: DOH is aware of the issue and will work on a solution.

Comment: I thought the publicizing of the DOH process was poorly handled for the addition of new diagnoses. I think there is a lot of interest in adding new conditions, but the DOH needs to better publicize the process. I want to comment on the edible discussion as well. We need to have packaged edibles that do not require cooking for people with different conditions or limitations. It seems clear there will be issues continually and I would like to see some sort of group continue past disbandment of this group.

Comment: There is a lot of issues around transportation issues that the attorney general should be involved in. In California, they had an immediate temporary document that the physician authorized, so that law enforcement knew that the person was legitimately transporting it. I would like this group to facilitate a conspicuous public announcement from the attorney general on transportation laws.

VI. Next Steps and Announcements

Plan for next meeting, November 21, 1:00 – 4:00pm conference room TBA.
Reports from subcommittees due by November 14th.

VII. Adjournment at 2:59pm.