

# Conference call with Harmony Duport – Deputy Chief, Bureau of Epidemiology & Disease Control, Arizona Department of Health Services

October 22, 2014

## Overview of Arizona's Medical Marijuana Program

Ms Dupont provided an overview and history of the Arizona program. Additional details about the program can be found at: http://www.azdhs.gov/medicalmarijuana/

# People and Staff

- In the Office of Vital Records, there are 11 dedicated staff for card registry program
  - Office Chief
  - o Legal Liaison
  - IT operations specialist
  - Deficiency specialist
  - o Caregiver/dispensary representative
  - 5 Customer Service Representative

# History

- Arizona MMP started in 2010 issued a statute by voter proposition
  - o Published rules 120 days after statute passed
  - o Card Registry was operational in April 2011
  - o Dispensaries started one year later
  - o 35,000 patients authorized to cultivate in the interim year
  - Now if card holders reside 25+ miles from dispensary, they can cultivate their own medicine
    - Once dispensaries were operational individuals were no longer able to cultivate their own medicine – unless they resided beyond 25 miles of a dispensary

### Dispensaries

- 1 dispensary for every 10 licensed pharmacies = 126 possible dispensaries in Arizona
  - o 55,000 registered patients currently in MMP
  - o 500 applicants from prospective dispensaries
  - o 100 allocated (Dispensary certificate)
  - o Currently, 83 operational
    - Each dispensary is able to have 1 cultivation site and 1 licensed kitchen for production of edibles
- AZ is divided into geographic areas based on census track
  - o 126 community health analysis areas coincidentally same amount of dispensaries
  - o 1 in each geographic area

- How were applications decided on?
  - o There was a review process for applications
  - o They must apply for a specific geographic area
  - If the application was complete and compliant it was determined to be eligible for the lottery
  - o Applicants who were able to show at least \$150k start-up backing moved on to the lottery for geographic area
- Lottery process
  - o Conducted a drawing with a bingo machine
  - o There was 1 winner for each geographic area
  - o They were allocated a dispensary certificate
  - Once the site was ready to open an additional application to start operations was submitted (site, floor, and security appl)
    - receive Certificate of Use permit
  - o A site inspection is conducted if passed able to open for operation
    - After inspection of facilities they receive Approval to Operate certificate

### Questions on overview

- Question to clarify patients ability to individually cultivate
  - o only a limited amount of patients are able to individually cultivate (about 3%)
  - o most patients live within 25 mile radius of a dispensary
  - o upon renewal of MMP registry patients addresses are verified for cultivation rules (if within 25 mile radius not able to cultivate personally)
  - o AZ prohibits cultivation if patient has access to a dispensary
    - This was written into statute that way (not sure of the rationale behind that)
- Do dispensary applicants/owners have to be AZ residents?
  - o No
  - o initially it was written into the statute, but after a court case it had to be removed
  - o Initial filtering process for applicants included
    - Review of: bankruptcy, child support issues, AZ resident, no law enforcement affiliation, or member of DoH, etc.
  - o AZ was sued on these requirements, so they had to go through a rule change which removed AZ residency as a requirement
  - o felony offenses (violent or drug related) are restrictions for MMP card holders but not for dispensary applicants
  - o Ms. Duport will send Peter their filtering criteria
- Prohibition against personal cultivation Have you experienced movements against this rule?
  - $\circ$  No
  - There were administrative hearings where this was brought up it's written in the statute so it's not likely to change

The department is not a law enforcement agency, so we have no jurisdiction to
enforce the no cultivation law – we don't have the authority or checks in place to
enforce this rule

# **Sub-committee Questions**

- 1. Appropriate number and location of dispensaries
  - **Structure of dispensaries (Nonprofit? For-profit? State?)**
  - A. What is the right fit (#, location) in year 1 for our patient population (economic feasibility, medical necessity)?
  - B. What's the percentage of patients that use dispensaries?
  - C. Should DOH make recommendations for the first 1-3 years based on the roll-out? Who decides on the number and distribution of dispensaries and using what criteria?
  - D. How do we deal with geographical discrepancies (rural areas)?
  - Structure Non-profit
  - 1 dispensary for every 10 licensed pharmacies = 126 possible dispensaries in Arizona
    - o 99.9% of dispensary applicants were able to show they had the \$150k for start-up
  - 81% of active card holders are using dispensaries
  - DOH does make recommendations
    - AZ is broken down by geographic areas (called Community Health Analysis Areas)
    - o By chance, there are 126 areas = one dispensary per CHAA
    - o Areas previously used for cancer studies in both urban and rural areas
  - Are there dispensaries on tribal lands (*Navajo reservation*)?
    - o 16 Community Health Areas on tribal land
    - o tribes did not agree to have dispensaries on land
    - o eliminated any dispensaries in those areas
  - Staffing for review process
    - o 30 ppl (we had access to additional staff during review period)
      - registration periods, approval to operate, and inspection process
    - o we trained surveyors for dispensary inspections
    - o 4 ppl trained to conduct inspections at start-up
    - o since then we have added some personnel and we're currently recruiting a legal person
  - Sounds like the executive branch was supportive in making the program work
    - o Yes, it was a high priority
    - o Major commitment on part of the department and executive branch
    - o We were tasked through the statute, whether they liked it or not
    - Support from executive branch, priority with hiring
      - bringing people in, bringing FTEs when needed
      - We needed major resources to be completed quickly and well

- The rule writing alone was an extensive process
- We had IT personnel dedicated to this project
- Also other dedicated resources were required to get program started and operational
- What's the primary funding source?
  - o application fees and card fees
  - o the program is self-sustaining no money from taxes or general fund
- How was the program funded the initial 1-2 yrs?
  - o The statute was passed in Nov 2010
  - o Revenue generated by April 2011
  - o We were able to borrow money from within the agency until the revenue came in
- What are the fees
  - o Patients \$150/year
  - o Dispensary \$500/year
  - o Caregiver \$300/year
  - o Application from Dispensary registration \$5,000
    - If the applicant was not successful in the lottery, \$1,000 reimbursed
    - \$1,000 renewal fee
  - o SNAP-eligible patients \$75/year
    - No sliding scale fee for patients
  - o There is an annual report on the website
- 2. Manufacturing Issues (Cultivation, Quality control; types of product, testing, labeling, security, environmental issues)
  - A. What's the best method for cultivating in-house or external source?
  - B. Who tests the medicine? Dispensaries or state-run department?
  - C. How do you handle regulation structure at different levels (growing, security, point of sale)?
  - D. Is indoor growing more secure than outdoor?
  - Every dispensary able to have 1 cultivation site (1 location to dispense; 1 location to cultivate)
    - o not dictated where (onsite or offsite)
    - o no limitation on how much they can grow
      - Patients individually cultivating can grow 12 plants dispensaries no limitation
    - o dispensaries can purchase from other dispensaries
    - o they can accept donations from caregivers, etc but no fee exchanged
  - No testing requirements limitation of statute: only allows cardholders to possess medical marijuana
    - o employees of department cannot possess marijuana so they cannot test

- o dispensaries can have in-house testing
- o dispensaries can't take it to testing site unless person has a card to possess
- Compliance assistance specialist inspectors
  - Conduct facility inspection from top to bottom, inventory, point of sale control, etc.
  - Kitchens are inspected by sanitary inspector (food safety)
  - What about book keeping records
    - Yes, dispensaries are required to do this
    - It's a requirement with annual renewal which includes a financial audit independent CPA reviews
  - o Do compliance officers need to be trained in marijuana
    - None were experienced in this particular inspection (dispensary/cultivation)
    - They were experienced with inspection (tobacco, sanitation inspectors)
    - They had general inspection background, but not with MMP
- Allow for both indoor and outdoor cultivation
  - o have no evidence which is better
  - o cultivation sites need to be in closed, locked facility whether inside or outside
  - Indoor vs Outdoor
    - Anecdotally indoor grow is preferred because it's a more controlled environment
- Point of sale system to track movement of medicine from dispensary to dispensary
  - o inventory maintained through this process
- Testing
  - o No testing standards in place for impurities, THC content, etc.
  - o Required to label if used pesticides
- 3. Administration (registration, staffing, regulatory issues, evaluation)

Database, Data needs, Privacy concerns

- A. What is the process to become an operator? How do we select the applicants?
- B. Do we want the retailors to be the growers (vertical integration)? What cultivation practice works best (indoor vs outdoor)?
- C. How do we ensure medical marijuana (MMJ) is not cost prohibitive for patients?
- D. What kind of regulatory structure do they (the other state) have in place?

Most of these questions were answered above...

- Process
  - When applicant selected the entity is registered to operate
  - o They receive "approval to operate" certificate after being inspected
  - They must meet local zoning requirements as part approval to operate certification

- Application packet includes a form from local jurisdiction for compliance with local zoning
- When they submit original application to register (documentation from local district and landlord needs to say that they meet zoning restrictions or there is nothing to restrict it - location is leased and okay)
- AZ requires vertical integration
- How do they ensure its not cost prohibitive
  - o Currently, it's about \$350/oz
  - They have no control of the cost
  - o Doesn't vary across dispensaries
  - o It is more expensive than the black market price (don't know how significant the difference is)
- 4. Education and Training (consumers, physicians, public; protection of minors)
  - A. Do states have education/training experts that can educate and inform doctors, patients, and the general public?
  - B. How does your state educate and inform dispensaries/operators about the legal and safety best practices, community involvement, and sensitivity?
  - C. Does your state have educational resources for minors on medicine and drugs in the DOE, private, or community resources?
  - Every dispensary in AZ is required to have a medical director (MD)
    - o To provide oversight and training
      - train staff, develop educational materials, provide education as needed
  - Department is partner with Arizona poison control center
    - o available 24/7 for patients who have Qs; website and training materials; provide education/training to dispensaries
    - o PCC number on their cards
  - AZ will be putting barcodes on new cards
    - o up to 100K characters on bar code
    - o card #, first last name, website, phone number to poison control, dispensary name, DBA
  - Are doctors at dispensaries the same as ones recommending into MMP?
    - o No, they are actually prohibited from recommending patients
  - Was there difficulty finding Med Director for dispensaries?
    - Dispensaries share Medical Directors but MD would need card for each dispensary
    - o They don't need to be on premises at all times
    - o They just need to be available during operational hours (phone or onsite)

- Was there a surge when dispensary program started?
  - o 20,000 applicants initially when dispensary started it more than doubled since then now we're at 55,000
- Nothing specific to minors in terms of education
  - o AZ does have minor patients
  - We have not done community or school outreach
  - o Powerpoint presentations are available on website
  - o In process of developing training/education
- The department does provide training to dispensaries
  - o creates manuals for point of sale program
- No newsletters currently but maybe something to work toward
- DOH accepted MMP as a legitimate treatment
  - o it's in the best interest to keep the public informed
  - DOH was not supportive of legislation, but once it passed DOH accepted it and did the best to ensure it's a 'medical' program not recreational program
    - The program has a medical focus

### 5. Taxes/revenue/costs

- A. To what degree did your state utilize your current tax system to the medical cannabis industry (NM specifically because they have similar GET system)?
- B. What are the ranges of tax rates applicable to different points of the industry? (import of seeds → use up to 4%; grower→manufacturer wholesale tax ½ %; manufacturer → retailer ½ %; etc)
- C. Are taxes earmarked for particular uses? What are those uses?
- D. Lessons learned/best practices If you could design your tax system based on what you now know, what would you do and not do?
- E. Does your state collect any revenue not in the form of a tax (i.e. application or registration fees)?
- Department doesn't have specific information on this
  - o The program is funded solely on fees generated by the program
- Are there any special taxes placed on the medicine?
  - o no standard tax only

### 6. Federal interface

- A. How do we protect state licensed dispensaries from Federal interference? How do you enlist the support of local/state law enforcement?
- **B.** Are there steps the state can take to pre-emptively protect the patient population from federal interference?
- C. How do we allow for intra-state transport of product?

- This is a state program
  - o not protected from federal laws state law only
- DOH has no jurisdiction over patients
  - o They do receive calls and information from law enforcement
- Is there a method for law enforcement to verify cardholders?
  - o Yes
  - o There is a point of sale system
  - o They are able to see active, expired status
  - o There is an online system of verification in place
  - o They are limited on info able to provide to law enforcement
    - There is a privacy clause in the statute
    - They can't provide names or addresses to law enforcement
    - The information is out there but it can't come from their department
- Patients cards will say if they are authorized to cultivate or not
  - o With a dispensary the certificate of operation must be displayed
  - o The authorized address is on this document
- How does law enforcement verify individual patient's grow site
  - o It's difficult to determine
  - The card only says if they are able to grow or not it doesn't specify location
  - Able to grow 12 plants max any stage of growth
- Intra-state transport
  - Within AZ if dispensary is transporting medicine they have to maintain a trip log in their possession stating where transporting from, where going, to whom, and route of travel
  - o The transport vehicle is not identified as MMP vehicle
- Reciprocity with other states
  - o Cardholders from other states can possess up to 2 ounces when in AZ
  - They can't purchase from dispensaries
    - They can possess in AZ, but are not able to purchase from state not specifically addressed in statute or rule

### Open Q&A

- Overall opinion on program lessons learned, major challenges, etc
  - o Initially we had to put the program on hold for 1 year but that's it
  - Overall the program is successful thus far
    - We are able to grow and adapt as program develops
- Sufficient number of dispensaries
  - o 83 operational currently

- o We allocated 100 registration certificates
- Once they are all open it should be sufficient for the program
- Do you have specific requirements for extractions?
  - They review extracts, but there are no specific requirements
  - o If butane is used it must be annotated on the label