COLLEGE OF SOCIAL SCIENCES
public policy center
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Conference call with Harmony Duport – Deputy Chief, Bureau of Epidemiology & Disease Control, Arizona Department of Health Services

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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
  - Legal Liaison
  - IT operations specialist
  - Deficiency specialist
  - Caregiver/dispensary representative
  - 5 Customer Service Representative

History

- Arizona MMP started in 2010 - issued a statute by voter proposition
  - Published rules 120 days after statute passed
  - Card Registry was operational in April 2011
  - Dispensaries started one year later
  - 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
  - 55,000 registered patients currently in MMP
  - 500 applicants from prospective dispensaries
  - 100 allocated (Dispensary certificate)
  - 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
  - 126 community health analysis areas coincidentally same amount of dispensaries
  - 1 in each geographic area

- How were applications decided on?
    - There was a review process for applications
    - They must apply for a specific geographic area
    - If the application was complete and compliant it was determined to be eligible for the lottery
    - Applicants who were able to show at least $150k start-up backing moved on to the lottery for geographic area

- Lottery process
    - Conducted a drawing with a bingo machine
    - There was 1 winner for each geographic area
    - 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
    - A site inspection is conducted if passed able to open for operation
        - After inspection of facilities they receive Approval to Operate certificate

<u>Questions on overview</u>

- Question to clarify patients ability to individually cultivate
    - only a limited amount of patients are able to individually cultivate (about 3%)
    - most patients live within 25 mile radius of a dispensary
    - upon renewal of MMP registry patients addresses are verified for cultivation rules (if within 25 mile radius not able to cultivate personally)
    - 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?
    - No
    - initially it was written into the statute, but after a court case it had to be removed
    - Initial filtering process for applicants included
        - Review of: bankruptcy, child support issues, AZ resident, no law enforcement affiliation, or member of DoH, etc.
    - AZ was sued on these requirements, so they had to go through a rule change which removed AZ residency as a requirement
    - felony offenses (violent or drug related) are restrictions for MMP card holders but not for dispensary applicants
    - Ms. Duport will send Peter their filtering criteria

- Prohibition against personal cultivation – Have you experienced movements against this rule?
    - 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

<u>Sub-committee Questions</u>

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
  - 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)
  - By chance, there are 126 areas = one dispensary per CHAA
  - Areas previously used for cancer studies - in both urban and rural areas

- Are there dispensaries on tribal lands (*Navajo reservation)?*
  - 16 Community Health Areas on tribal land
  - tribes did not agree to have dispensaries on land
  - eliminated any dispensaries in those areas

- Staffing for review process
  - 30 ppl (we had access to additional staff during review period)
    - registration periods, approval to operate, and inspection process
  - we trained surveyors for dispensary inspections
  - 4 ppl trained to conduct inspections at start-up
  - 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
  - Yes, it was a high priority
  - Major commitment on part of the department and executive branch
  - 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?
    - application fees and card fees
    - the program is self-sustaining – no money from taxes or general fund

- How was the program funded the initial 1-2 yrs?
    - The statute was passed in Nov 2010
    - Revenue generated by April 2011
    - We were able to borrow money from within the agency until the revenue came in

- What are the fees
    - Patients - $150/year
    - Dispensary - $500/year
    - Caregiver - $300/year
    - Application from Dispensary registration - $5,000
        - If the applicant was not successful in the lottery, $1,000 reimbursed
        - $1,000 renewal fee
    - SNAP-eligible patients - $75/year
        - No sliding scale fee for patients
    - 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)
    - not dictated where (onsite or offsite)
    - no limitation on how much they can grow
        - Patients individually cultivating can grow 12 plants – dispensaries no limitation
    - dispensaries can purchase from other dispensaries
    - they can accept donations from caregivers, etc but no fee exchanged

- No testing requirements - limitation of statute: only allows cardholders to possess medical marijuana
    - employees of department cannot possess marijuana so they cannot test

    - dispensaries can have in-house testing
    - 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
    - *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
    - have no evidence which is better
    - 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
    - inventory maintained through this process

- Testing
    - No testing standards in place for impurities, THC content, etc.
    - 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
    - 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
    - Currently, it's about $350/oz
    - They have no control of the cost
    - Doesn't vary across dispensaries
    - 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)
    - To provide oversight and training
        - train staff, develop educational materials, provide education as needed

- Department is partner with Arizona poison control center
    - available 24/7 for patients who have Qs; website and training materials; provide education/training to dispensaries
    - PCC number on their cards

- AZ will be putting barcodes on new cards
    - up to 100K characters on bar code
    - card #, first last name, website, phone number to poison control, dispensary name, DBA

- Are doctors at dispensaries the same as ones recommending into MMP?
    - 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
    - They don't need to be on premises at all times
    - They just need to be available during operational hours (phone or onsite)

- Was there a surge when dispensary program started?
    - 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
    - AZ does have minor patients
    - We have not done community or school outreach
    - Powerpoint presentations are available on website
    - In process of developing training/education

- The department does provide training to dispensaries
    - creates manuals for point of sale program

- No newsletters currently but maybe something to work toward

- DOH accepted MMP as a legitimate treatment
    - 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
    - The program is funded solely on fees generated by the program

- Are there any special taxes placed on the medicine?
    - 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
    - not protected from federal laws – state law only

- DOH has no jurisdiction over patients
    - They do receive calls and information from law enforcement

- Is there a method for law enforcement to verify cardholders?
    - Yes
    - There is a point of sale system
    - They are able to see active, expired status
    - There is an online system of verification in place
    - 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
    - With a dispensary – the certificate of operation must be displayed
    - The authorized address is on this document

- How does law enforcement verify individual patient's grow site
    - 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
    - The transport vehicle is not identified as MMP vehicle

- Reciprocity with other states
    - 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

<u>Open Q&A</u>

- Overall opinion on program – lessons learned, major challenges, etc
    - 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
    - 83 operational currently

    - 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
    - If butane is used it must be annotated on the label