

HCR 48 Task Force Meeting #4
Tuesday, October 14, 2014 9:00-11:00am
Hawai'i State Capitol, Room 325

Task Force Members Present:

Jill Nagamine, Attorney General's Office
Peter Whitar, Department of Health
Ted Sakai, Director Department of Public Safety
Jonathan White, Department of Taxation (via phone)
Susan Chandler, University of Hawaii Public Policy Center
Harry Kubojiri, Law Enforcement Coalition
Representative Della Au Belatti, House Committee on Health
Sen. Josh Green, Senate Committee on Health
Karen Kawamoto (alternate for Representative Gregg Takayama)
Jensen Yoshihide Uyeda, University of Hawaii Tropical Agriculture and Human Resources
Rafael Kennedy, Drug Policy Forum
Dr. Clif Otto, A physician participating in Hawaii's Medical Marijuana Program
Karl Malivuk, A patient who is over the age of 18 and is a participant in Hawaii's Medical Marijuana Program
Jari S. K. Sugano, A guardian of a patient who is under the age of 10 and is a participant in Hawaii's Medical Marijuana Program
Dana Ciccone, A caregiver participating in Hawaii's Medical Marijuana Program
Dan Gluck, American Civil Liberties Union of Hawai'i
Dr. Christopher Flanders, Hawaii Medical Association
Alan Shinn, Coalition for a Drug Free Hawai'i
Alternate for Lee Ann Teshima, Commerce and Consumer Affairs

TF Members Absent:

Jon Riki Karamatsu, Department of the Prosecuting Attorney
Sen. Rosalyn Baker

Announcements

DVDs of the public hearings are available via Rep. Belatti's office
DOH has scheduled a teleconference with Arizona MMP Administrators
- Wednesday, October 22 from 9:00 to 10:30am – call-in number TBA

Review of ground rules (Susan Chandler)

Timeline

- Does the TF want to schedule an additional meeting in November to discuss the decision making process? Potential dates: Nov 5 or 6
- Nov 6 (further details TBA)

Approval of September 9th Minutes

* Approved

Updates and Follow-ups

Recap of public events

- The public is supportive of the medical marijuana program and the proposal to establish dispensary systems
- The need to expand and improve the medical marijuana program was expressed
- There was less of a turn out on Oahu than Hilo
- Major concerns expressed in Hilo were patient needs and the need for safe access to medicine
- Patients want to retain the right to grow their own medicine as well as have the option to use a dispensary system
- Concerns expressed about 'big business'

DOJ update

Rep. Belatti has made contact with the US Attorney's Office District of Hawai'i to participate in a Q&A discussion at a TF meeting

- Open to presenting questions to DOJ point of contact to discuss at the next TF meeting
- Providing questions in advance is helpful to focusing the discussion and it provides the ability to address specific concerns
 - TF members should forward questions for DOJ to Rep. Belatti

Subcommittee Reports

Policy SC Update

- They have had 2 meetings since the last TF meeting (topics discussed numbered below)
- They have had 7 meetings up to this point
- All meetings are open to the public

1. Quality assurance – lab testing was the focus

- A subject matter expert presented at the last meeting
 - Provided insight on general guidelines to testing and screening of medicine
- How eventual screening guidelines will develop - start simple, sophistication will develop naturally
 - Who does screening? Accredited? By whom?
 - What is the sample screened for? Which impurities? Dirt or deeper (Pesticide, mold?)
- Basic screening – 3 Cs
 - content, contamination, and consistency
 - allows flexibility

2. Physical security

Basics

- Where is it held? Alarm system requirements?
 - Alarms and cameras are consistently required by other states
 - Regulation not legislation

- Basic statement – "security is provided for, and details will come from the managing agency"
 - Background checks required for all employees
3. Inventory tracking
- It's important to track that none of the inventory "escapes" out of the system and that black market products don't make it into the system
 - fidelity of system – addressed in regulation not legislation
4. Training and education of staff
- Mark Comida (Professor from HPU) presented on this topic at the meeting
 - This is a process that will develop over time
 - These concerns should be addressed in DOH regulations not legislation

Q&A:

Do we have the capacity within the state to screen marijuana? Is the infrastructure in place?

- We have the mechanical capacity, the equipment exists, it's used in agricultural products, there is expertise, labs have done this historically, we don't have a regulatory framework (the process and regulatory body needs to be developed)
 - Mark Haggadone (Technical Experts) - has performed the tests before
- Currently, DOH does not have the capability to do this; they are looking to commercial labs to develop this capacity
 - Need to develop standards – then looking at who can do it
 - We must be practical about testing and standards – in terms of affordability of medicine
- The Dept. of Agriculture should be involved

Concerns with testing and inventory control

- Who is responsible for both? Will the DoH be responsible for both testing and inventory control?
 - Policy committee - Yes

Who can regulate?

- Open question
- Who in the state government currently has the capacity to regulate?
 - DPS – has the system of tracking already in place (pharmacy and substance control) – they are already set up to regulate pharmacies, so the capacity currently exists

Will testing facilities be available on the outer islands? If testing facilities are not available on all islands, could medicine be transported inter-island? How small can a sample be for inter-island transport?

- It has to be big enough to test up to the standards, but not too large to be prosecuted for flight
 - De minimis sample: 1mg/ml – standard for testing; not a controlled substance: can be shipped
 - For testing – as an ingested medicine, it needs to be pure (how do test? Need for

- agriculture people to understand the pharmaceutical concerns)
- No international standards for analyzing cannabis
 - State can develop these standards
- Potentially establish a central lab for extensive testing and satellite labs for testing for mold, etc
 - Need decontamination labs on each island (because you need a larger sample)
 - Could not be the whole batch – random sample because of cost issue
 - Mild, pesticide, quality -- expensive even though we have the equipment and expertise but we don't have the money for it
- Does the capability, capacity currently exist? Where?
- Dept. of Agriculture and Pharmacy -- need to be included
- Third party reviewers may be more economical
- Randomly screening agricultural products (food safety) in market
- Cost picked up by the department (public/private coop)

Cost for testing

- Random sampling with third party
- Capacity/technology exists at university
- Expertise exists in state but third party may be more cost efficient
 - Third party testing available at farmers expense
- DOH does random sampling of other products – food safety
- 2 systems in place currently for anything edible

Federal Interface SC Update

1. Rescheduling of marijuana – opens more resources

- There is a rich network of regulatory enforcement -- resources are available if marijuana was properly scheduled
- Steps the state can take – Senate resolution 37: reschedule proceeding
 - The AG supports the state's right to support medical marijuana

2. Transport of medicine

- We need a medical cannabis program that addresses transport – we are an island state – there are concerns with transport in terms of being geographically dispersed
 - The patient should have the ability to move within state with medicine
 - Ability to carry/transport medicine in intra-state travels – or dispensaries available on outer islands
- Interstate transportation
 - 2010 Cannabis working group
- CA has county to county policies
 - Alameda County at Oakland International Airport – allows for the transport of medical cannabis
 - The county established policies with TSA to allow patients to transport medicine
 - TSA refers cases to Sheriff's Office
 - Certified patients with no extenuating circumstances can keep their product and board their planes

- Dept of Transportation – responsible to establish protocol for transport of medical cannabis
 - Provided example of guidelines/definition of medical cannabis allowing patient to travel with medicine
 - Legislation should define "transportation" to clarify
 - Connect with TSA and DEA to protect patients during transportation
 - Dispensaries and companies could be problematic b/c of scale
- DPS, TSA, DOT coordinate transport issue – establish guidelines/regulations
 - What would legal transport look like?
 - 1 – Certified patient with blue card on their person
 - 2 – DOT, TSA, & DPS would need to establish these guidelines/standards on how to transport (e.g., must be packaged in airtight container, concealed, carry-on luggage)
 - 3 – Establish a specific agreement with TSA

Ms Sugano took a trip to CO to learn about their medical marijuana program

- Met with growers and dispensers to learn about their program
- The TF can look to CO to answer some of the questions that were brought up
- An informative brief of trip to CO is posted on the UH Public Policy website
 - <http://www.publicpolicycenter.hawaii.edu/projects-programs/hcr48.html>

Decision-making process for Task Force Report

We need to:

- Open dialogue about various policy topics identified
- Identify the components of report
- Establish the decision making process – what is the decision making process?
- Move forward on drafting the recommendation report

Way forward:

- TF will discuss the major topics
 - A subcommittee will volunteer to flush out and provide feedback on the topic
- TF will express standing on topic and work toward consensus
 - Gradient of agreement
 - Vote: majority rules
- The report will be drafted based on recommendations from TF
 - Responsible person will incorporate the edits (submit to Rep. Belatti/Susan)
 - TF will review/approve the report
- The PPC or Rep. Belatti's office will write the recommendation report
- The LRB will help with legislative language and draft for legislature based on the TF recommendation/report

Think about how the TF will vote on this

Core issues discussion

1. Appropriate Number of Dispensaries

2. Appropriate Location of Dispensaries

The TF must consider dispensaries from the point of view of the patient

- How do patients access medicine?

We need to move forward with language to address major topics that will be included in the report

Talking about dispensaries themselves (storefront)? Where are the dispensaries getting the supply/inventory from?

- Are the dispensaries growing their own or contracting out?
 - Vertical integration?
 - Are producers and retailers different entities?

An informal survey at Kapiolani public meeting (approx. 200 attendees) found there is a need for public education on the issue

- Approximately 50/50 understand dispensaries
- Education and information on the medical marijuana program and dispensary system is needed
- What is a dispensary? What does it look like?

What is the appropriate number of dispensaries? What is the criterion for determining the number & location of dispensaries?

- 'X' number of dispensaries per number of patients
- Is a patient allowed to register at multiple dispensaries?
- Key it to where the patients are registered - look at patient distribution – that information we'll know from program data
- What is safe and what we can manage?
 - Knowing what patterns are going to be – can we produce the right amount for communities and balance with what providers are able to manage as part of their health profile
 - Should we have a discreet number? We cannot answer these questions at this time
- Treat as a pharmacy – provides access to medicine
 - Ensure medicine is clean and safe
 - Testing of medicine and quantity is important
- Numbers are difficult to determine at this point – what is the basis for determining this?
- Different concerns on different islands – BI wants the ability to grow their own medicine, Oahu may want dispensaries unable to grow or limited space to grow
- Anticipate a flux in the program upon approval/implementation of dispensary system
 - More people will likely register for the program once dispensaries (access points) are available

- If specific number of dispensaries is identified, it doesn't allow the demand to be addressed – anticipating flux in patients in program upon approval of dispensary system

This is a dynamic process

- Consider flexibility in drafting legislation that provides the ability to adjust as the program evolves
- Identify a way to assess the true need (What is the demand?)
- The numbers are not balanced across state – we need to assess the medical needs of the community in order to provide an accurate scope of the issue
- Currently, nothing is in place to be able to assess this
 - There are ways to obtain the information if that is what's needed

Look to other states for lessons learned to establish a model appropriate to our needs

- A regulatory body is needed
- Base decision on patient needs – ask the patients what their needs are
 - We need the metrics
- Historically in Hawaii, marijuana has been viewed as a criminal issue, not a medical issue (so registered patients would be reluctant)
 - At this point you won't see the true opinion of patients because of the stigma/legal concerns surrounding the program
 - Patients are reluctant to expose themselves or provide information
 - As the program evolves patients will feel more comfortable providing information
- Experience of other states: about 90% of patients are using dispensary
 - DOH should have flexibility to provide correct number of dispensaries
- Communicate with cardholders; providers know who their patients are
 - Use an analytical approach: talk to the current patients
- Get the information, design the formula to set minimum standard per island (keying it to the residents – geographically); then allow DoH the flexibility to adjust as the program evolves
- Understanding of which patients and the number of patients that would like to participate in the dispensary system is needed (how many people need/will use dispensaries)
 - DOH has no way to contact 13,000 patients (no direct communication); they don't have full list of doctors
 - Doctors should have knowledge of patient behavior -- assumption is that they grow their own or have a caregiver
 - Patients are not willing to expose themselves due to potential repercussions
 - Assumption in current program is patients grow themselves or a caregiver grows for them
- Concern that there are too many or too few dispensaries
 - too many: market will eliminate them
 - too few: give the DOH flexibility to adjust
- Cautious approach is needed

Do we have the data to justify the numbers?

- What is the appropriate formula?
- Allow the market to regulate itself – provide flexibility in legislation to allow this
- The medical marijuana program will expand once dispensary system is in place
- Current stats on medical marijuana program – ability for patients to access medicine (grow their own, caregiver, ?)

3. Cultivation/Production/Manufacturing Issues

4. Business Requirements for Licensed Dispensary

It is important to define dispensary

- What is a dispensary?
 - retailer, grower, etc – one in the same or different entities?

Licensing process with DoH

Nonprofit - form 990: distribute money in forms of bonuses
element of transparency

The business structure of dispensaries (for-profit/nonprofit) seems arbitrary in this situation

- Nonprofit is a corporate law (gives more structure, regulations)
- The structure should be identified in legislation
 - Looking at identifying one type of entity to make it easier to regulate/manage
- Trying to keep it local with nonprofit recommendation
- Natural regulation from corporate structure
- Concerns about instant millionaires
- Establish criteria for the licensing of dispensaries
- There is an opportunity to regulate license structure vs business structure
- Determine licensing fees
- NPO – spend profits within corporation – other structures distribute to investors
- Transparency in the program is vital
- Residency key – permit filers and owners should be HI residents
 - Can you restrict business to residency? DCCA – not sure

James Anthony

- NPOs are not tax exempt
- Form 990 won't apply to dispensary nonprofits
- Number of dispensaries difficult to determine
- Many states try to control as corporations owned by local residents
 - When dispensary system is here, patient base will expand
 - Currently, HI numbers are low compared to other states (within a year or two, number of patients will increase)
- Consider reciprocity
- Outdoor growers/black market – patients not willing to expose information
- Dispensary system will behave as a market
 - Look at what is currently in place adapt to needs
 - Learn from HI past and learn from other states

- What to do with excess medicine from prolific growers? Are they able to sell into dispensary system?
 - Reality based system
 - Oregon's model: caregivers grow for some patients, grew too much – they are able to sell to dispensaries
- Don't force indoor/outdoor growing
 - advantage here – outdoor growing
 - provide option

Division of responsibilities for Report Recommendations

- Rep. Belatti – will draft recommendations for the number and location of dispensaries
- Mr. White – will draft the recommendations regarding structure

Next meeting

- Possible additional meeting – November 5 or 6
- Nov 6 – will confirm details (time, location, etc)
 - Parking passes are available upon request

Public Input

Comment on the number of dispensaries – current cardholders

- The program will flux with ease of access
- Mistake to open up more dispensaries on Big Island than O'ahu
 - Population concerns when considering location (Oahu has 4 times the population of BI)
- Quality and strain of medicine is an important factor
 - Availability of specific strains – to treat specific ailments/symptoms
 - ICBD - top quality strain of special cannabis for epilepsy

Number of dispensaries

- 250 – 500
- currently 13,0000 patients in medical marijuana program and the number of patients will increase within the next few years

Task Force doesn't know the quantity of product needed each month for medicinal purposes

- She is currently using 4oz per month for her condition
- Take into consideration the amount of time it takes to grow cannabis in terms of establishing supply/inventory of medicine
 - It takes about 4 months for a plant to grow
 - 50 pts at 4 oz per month would be 200oz needed per month – availability of supply is a concern
- A dispensary must produce a lot! Who can grow 1000 oz/month on this island?
 - Federal average - 16 oz./month

- The state may have to remain open to accessing supply from other locations
- The market will drive the minimum (not a requirement) or maximum: 1/50 patients
 - Allow the market to regulate itself rather than dictating the minimum number of dispensaries
- DoH growing license - 1 grower per 'X' patients per island
 - Regulating the supply, while allowing them to continue to grow at home – to avoid a monopoly

To address the concerns about spores and mold

- Make concentrates or tinctures

Consider increasing the number of legal plants for each patient

- Currently – 7 plants, 4 mature/3 immature

Issue of reciprocity

- Visitor driven industry; how would we accommodate patients from other states with cards?

Delivery issue - how would we provide to people who cannot physically go to dispensary?

- Safe delivery method for those who can't leave the house

Careful about cap on growing facilities and delivery facilities

- Caution with specifying exact number – flexibility for program to evolve

Schedule 1 drug

- Why not treat like every other prescription drug
 - Pharmacy are already there - why a whole new regulatory structure?
 - There are systems already in place

Cultivation/production - for health reasons

- Consider centralized dispensaries that provide oils
- Standardized way is product oil, distribute the *oil*?
 - With that product – transportation, testing is more standardized, easier to regulate, dispersed in quantifiable amounts

How do dispensaries 'get' their inventory?

- Contract with vendors
- Restricting location of growers will restrict medicine

Patients retain right to grow

- Don't take power of patients to grow their own - if they can grow their own, let them grow still
- Empower them to grow for themselves and help other patients

Medical research

- Look at CBDs
- medically tested
- funding for research is needed

Relationship between growers and dispensaries

- Number of dispensaries to growers
- TF to determine if vertically integrated or not?
 - Do we say it **MUST** be vertical or not vertical: let that be silent so that it can be
 - Hybrid model – allows for individual growers, excess medicine to be provided to dispensary
- Parallel systems? Dispensary and individual growers (and cross-fertilization?)
 - Ability to track through system
 - Licensing as caregivers already exist
 - Grower would have to get medicine tested, then they could sell into dispensary system
- Need for outside growers to maintain inventory
- System that provides safest, easiest access to patients
 - Based on patients' needs

Testing

- You may encounter varying results from the same plant
- You would need to sample from various parts of the plant

Sen Espero – those interested in continuing the discussion meet in room Rm 224

Next Steps

- Coordinate with the US Attorney's Office District of Hawai'i to address TF questions at next meeting
- Schedule additional TF meeting in November (tentatively Nov 6)
- TF members to start drafting recommendations for the main topic areas

The next Task Force Meeting is Thursday, November 06, 2014 at the State Capitol, Room 325 from 9:00am – 11:00am