

**HCR 48 Task Force Meeting #3**  
**Tuesday, September 9, 2014**  
**Hawai'i State Capitol, Room 325**  
**9:00-11:00am**

**Task Force Members Present:**

Jill Nagamine, Attorney General's Office  
Peter Whiticar, 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  
Kelly Hooser (alternate for Senator Rosalyn Baker)  
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

**TF Members Absent:**

Lee Ann Teshima, Commerce and Consumer Affairs  
Jon Riki Karamatsu, Department of the Prosecuting Attorney  
Sen. Josh Green, Senate Committee on Health

Review of ground rules  
September Agenda Approval  
\* Agenda approved  
August Meeting Minutes Approval  
\* Minutes approved

LRB Report

Powerpoint presentation is available at: <http://www.publicpolicycenter.hawaii.edu/projects-programs/hcr48.html>

Presented by Lance Ching

Questions by the Task Force Members:

Why did report not address access of marijuana to youth?

LRB task was to provide information to TF for recommendations on dispensary model based on the Resolution based on the Resolution

Did not differentiate by age group

How did states address licensing fees?

Great variation among states, ranging up to \$75,000

What types of marijuana products were sold at dispensaries?

Various types of products are available, including topicals, edibles

Subject to health code similar to food regulations

Did research uncover any states' actions to address Federal scheduling of marijuana?

No, aside from official requests for Federal government to revisit the classification

What is the difference between permitting/licensing and registration?

Licensing process more stringent than registration

Was there a difference between warehouse growers vs. greenhousing (open-air)?

Concern about corporatizing cultivation in enclosed facilities

No difference noted

What did research show about awareness and education programs?

Information on dangers of abuse, addiction, and rehab programs

Some states use income from dispensary program for prevention

Do dispensaries operate on a cash-only basis?

Not sure if states have resolved banking issues

Are blue card holders registered for one dispensary?

Some states allow for multiple dispensaries

In HI, it would depend on number of available dispensaries

How do states set market price?

Administrative agency regulates pricing

Taxation varies among states – sales tax, marijuana tax, no tax

Did you see examples of inter-state movement?

No, but any travel by air or sea considered “interstate” travel and federally-regulated

Interisland transport would fall under this category

Look to Oakland for airport regulations example

Did you find provisions to handle access in rural areas?

Not addressed in research

Did other states handle this as an agricultural product?

No state addressed it solely as an agricultural issue

At least one state had a Dept of Agriculture concurrent program

Did any state rise to the top for quality assurance?

Please refer to the report

#### Public Hearings/Meeting Dates

1 public hearing was required by HCR 48. Task Force will have 2.

Hawai'i Island (Hilo) – 5:00 pm, Wednesday, September 10, 2014 at Aupuni Center

O'ahu – 5:00 pm, Wednesday, September 24, 2014 in the Capitol Auditorium

Testimony (written, in-person, and anonymous) will be collected and will be distributed to TF

Task force invited – if attending, inform Rep. Bellatti

Open to public for input on dispensary system and LRB report

Will attempt to record session for distribution to TF and public access television

#### **Follow-ups**

Department of Public Safety Briefing

Presented by DPS Director Ted Sakai

Law Enforcement Concerns

Access

- Who gets the product?
- How do we ensure the product only gets to certified users?
- Concerns about minors getting easier access

Security and safety

- Dispensaries may be targets for criminals due to volume of product and cash

Labeling accuracy

- Perhaps should be treated like a pharmaceutical
- Dosage, directions, dispensary name, physician name, patient name, THC content
- Concern about diversion of product to other markets
- Does it promote recreational/youth use of medicine

Pricing – How? Who?

Cultivation limitations

- Can patients access dispensaries and also grow their own medical marijuana?
- How do we ensure that limits are enforced?

Edibles and Topical

- Manufacturing concerns; dispensaries and personal
- Home labs and potential associated dangers
- New area of regulation for processing, and manufacturing

Banking

- Cash sales – reporting and large amounts stored in dispensary

## Monitoring

- How to handle physicians, patients, caregivers?
- Who can revoke the card of patients, caregivers
- Unannounced inspections, audits for physicians
- Difficult to regulate “go-to” physicians – top 10 physicians issued 10,000 permits
- Legislature could impose harsher sanctions (fines) for abuser
- Should probably be administrative, not criminal penalties

## Slow certification process

- Anecdotal: 8-13 weeks; DPS Report: 7-10 days
- The delays experienced may potentially be due to physicians stacking patients’ applications and submitting in bulk?

## Additional Questions/Concerns

What would happen if Hawai‘i removed medical marijuana as Schedule 1 drug?

- Federal law still would be paramount.
- Symbolic, no loss of funding

Does PSD recognize the medical use of Marijuana in Hawaii?

- Yes, it is the law.

Was a medical board considered to review medical conditions?

- Not considered; too difficult for DPS
- Possible for DOH (Peter said he liked the idea)

Recommended to approach DEA to address Federal/State classification conflict – state recognizes medical marijuana use

How to and who gets to set pricing?

- Law enforcement concerned about price gouging – if state-run, should maintain costs below the street value
- Other states have been under street value, *need further review*

Mentioned that the certification has been issued mostly to 20-30 age range

- If they meet the criteria determined by a physician, then it would be honored
- Generational change / perspective change
- Study by Dr. Charles Webb (Hawai‘i Island) - mean age: 51

Advancement of program relies heavily on physicians, so what protections are in place?

- Federal threats are a real concern
- Physicians are scared
- Medicare/Medicaid reserves right to sanction them. Has this ever happened?
- Can’t “recommend” product, only certify that “patients meet the state’s criteria for use”

Defined dispensary system

- Clear points of access for law enforcement, patients, caregivers – reduced uncertainty
- 13,288 in program; 291 “caregivers” (on Oahu)

#### New Mexico Program Administrator Teleconference

Presented by DOH Peter Whiticar

New Mexico Program seems similar to what Hawai‘i is thinking about

#### Program flexibility

- Evolved overtime, dynamic entity
- Need to be hands-on to adapt to cultural and legal changes

#### Focus on *Public Health Perspective*

- Built into all aspects of program
- Funded education and training program (patients, physicians, program staff, etc.)

#### Dedicated regulatory body

- Establish a separate program with a dedicated staff for implementation
- Monitoring and evaluation of program from the beginning
- Use data (patient location, level of use, number of patients, etc.) to better inform program

#### Barriers

- Rural access
- Abuse
- Incorporate *objective measures* in admission tied to qualified conditions
  - e.g., Chronic pain required additional certification by a specialist in NM
  - No additional strain on patient
- Lab testing
- Only dispensaries in NM
- NM dispensaries accept credit cards

#### Interview other states for more perspectives?

Oregon – coordination between dispensaries and cultivation sites

#### Policy Subcommittee Update

Presented by Dan Gluck

Working report circulated

Subcommittee welcomes participation, new members

#### Department of Taxation input

- Recommend that Hawai‘i follow the current GE tax structure

#### Substantial licensing fee may not be a big issue

- Help to ensure dispensary has financial wherewithal to start a well-functioning dispensary

Location and restriction issues

- No evidence that conforming to drug-free school zone laws would improve public safety, but there are political considerations to conform

Safety and security of supply – quality assurance

Next sub-committee meeting: **October 1; 2:30 - 4pm; Room 325**

#### Federal Interface Subcommittee

Current climate of cooperation between state, local, and federal law enforcement not conducive to medical marijuana program, review MOUs

Steps already taken

-Letter from Gov. Abercrombie to DEA to remove marijuana from schedule 1

-Senate Resolution 37

Describes state's authority and how State/Federal conflict can be resolved

Continue researching options to enable interisland transport

Concerns about subcommittee when they interact with other entities

-Sub committee's actions may not be considered representative of entire TF

-Purely information gathering for TF

-Vetting process needed for external RFIs on behalf of TF

-Questions for other entities need to be cleared through TF via Susan Chandler

#### Public Input

The TF should consider recreational use of marijuana

Price gouging concerns not applicable here

Not in CA – abundance of product

Get UH involved in cultivation process

Concerns of lack of certifying doctors in the State

State departments, hospitals (Straub) scaring away the doctors

Have there been any studies on the amount of money saved by using medical marijuana (i.e., reducing hospitalization, emergency room visits, etc?)

Concerns about labeling, testing sites NOW for individuals

- Types of testing

- Edibles

Accuracy is difficult

Product can vary widely

Different people react differently (dosage concern)

Create a short list of dispensary owners/growers

What steps can be taken to use credit and debit cards?

-Safety concerns for individual carrying cash and dispensaries

Need better, more accurate labeling system

How have dispensaries impacted other states' law enforcement?

- Program is new, don't have many expectations, depend on program set-up
- Seed-to-sale software for marijuana as has been used in agriculture
- Addresses diversion concerns
- Remember to localize our plans
- Complaint about the lack of public notification about task force meetings
- The T.F. is NOT a legislative task force; notices on PPC website
- Federal interface -- Would the TF be interested in contacting the DEA or DOJ to attend the October meeting?

### Next Steps

Include DEA/DOJ in task force information gathering and meetings

Research more issues

- Cost-offsets of medical marijuana program

- Seed-to-sale software for monitoring

- State protection options for physicians

- Price gouging prevention

- Interisland transportation

Schedule teleconferences with other state program administrators (e.g., Oregon)

Subcommittees:

- Submit questions to Susan Chandler for Task Force approval before contacting external agencies

Add *Energy usage in cultivation process* to next meeting agenda

Upcoming meetings

- Public Hearing: Wednesday, September 24, 2014; 5:00 pm in the Capitol Auditorium

- Policy Subcommittee: October 1; 2:30 - 4pm in Room 325

**The next Task Force Meeting is Tuesday, *October 14, 2014* at the State Capitol, *Room 325* from *9:00am – 11:00am***