

## Issues and Recommended Solutions

**Issue:** Regulatory Board

**Recommendation:** A recommendation for regulatory board was made at the last subcommittee meeting. This was carefully designed to provide for some industry self regulation with appropriate oversight. The recommendation includes a significant portion of the work group concerns and guidance.

*Supporting Brief*

The MMGA has already begun to implement some of the recommendations and will hold a state wide conference in October to review our self-regulating guidelines and begin continuing education programs. We find this industry to be most aligned with the Department of Agriculture as this is an agricultural product.

**Issue:** Tracking of Medicine

**Recommendation:** This has been the major issue with law enforcement.

*Supporting Brief*

Any successful business must know their inventory levels and customer base preferences. By tracking all medicinal products in a closed loop system, law enforcements concerns are handled. There are a number of acceptable commercial tracking programs already in place around the state. By administrative rule, a regulatory board could refine details insuring the patients and law enforcement needs were fully met. The proposed direction for tracking accomplishes the following:

- Significant reduction, if not elimination, of illegal v. legal product
- The ability for law enforcement to easily track illicit activity
- Assist caregivers with inventory control and regulatory compliance
- Insure patients receive uninterrupted supply of legal medicinal product

**Issue:** What is a plant?

**Recommendation:** Establish different criteria for plant growth stages and medical marijuana by-products based on actual science that make tracking and governing more efficient for law enforcement and the proposed regulatory board to administer. The science is now available to identify the THC content in baked goods, other edibles, and sundry products clearly delineating the qualitative and quantitative medicinal content.

*Supporting Brief*

Currently the State considers all rooted plants in the overall plant count. The background material provided shows that only the marijuana plant in the harvest or bloom cycle has significant potency or benefit. Similar to Hawaii and Colorado, Montana should adopt a

separate plant count for mature and immature plants. The grower determines when a plant has “turned to flower” in an inside grow facility. The six (6) plant limit should be based on flowering, not vegetative, plants. Plants in the flower stage are readily distinguishable from plants in the vegetative state. This also solves the problem for growers when clones die and vegetative plants that may be male or hermaphrodite (both male and female) and are subsequently destroyed in mid-grow cycle. This also permits a grower to maintain “mother plants” for future cloning to insure strain availability consistency.

Edible and other sundry products should be tested, produced in appropriate commercial facilities and labeled with the specific ingredient content similar to nutritional labeling. This will solve the issue of weight being the factor for these products, and control of dosing can be easily measured and quantified. A cookie, for example, may have only 40 mg of THC yet have a total weight of 1 ounce. Marijuana content should be considered for its weight not the gross weight of the product. With proper testing and labeling, regulatory enforcement becomes more effective and accurate.

**Issue:** The ability of an out-of-state resident to obtain a medical marijuana recommendation and subsequent license.

**Recommendation:** Continue to permit out of state residents to obtain Montana medical marijuana recommendation and license.

### *Supporting Brief*

A number of patients come to Montana for treatment of different illnesses, including cancer. A stage 4 brain cancer patient, Beverly Moore, was recommended for a Montana medical marijuana card by her physician in Billings but was rejected by DPHHS because her permanent residence is in Wyoming, although she is currently living in Montana during her treatment. Her inability to take other pharmaceutical treatments to ease her symptoms during chemotherapy added to her condition and was not in the interest of the patient. It is reasonable to ensure that patients coming to Montana for medical treatment can be provided the opportunity to receive quality, safe, and appropriate medicine depending on their situation.

There has been a question about “snow birds” that live in Montana part time. If a patient has been diagnosed with a qualifying condition, they should be afforded the opportunity to obtain medicinal product for the time they reside in Montana.

**Issue:** Caregivers serving out of state licensed patients

**Recommendation:** Caregivers should be permitted to serve licensed patients from other states with the following guidelines:

- Limit of 1 ounce per week per patient
- An exception should be made for terminally ill patients

*Supporting Brief*

This is a common practice in other states. With proper identification and reciprocal agreements between States, patients' needs can be met.

**Issue:** Unqualified patients receiving recommendations

**Recommendation:** The State Board of Medical Examiners has issued a revised Standard of Care that specifically addresses this issue.

*Supporting Brief*

If individuals have received a recommendation without warrant, their license will not be renewed under the new policy revisions. Suspensions of current medical marijuana licensing would be at the discretion of DPHHS.

**Issue:** Add PTSD as a qualifying condition

**Recommendation:** There has been some consideration of reviewing qualifying conditions by the Subcommittee, DPHHS, and the Board of Medical Examiners. With the recent action by the Veterans' Administration to permit returning vets to utilize medical marijuana and President Obama's specific mention of PTSD as a qualifying condition, we propose the Subcommittee consider adding PTSD to the list of qualifying medical conditions.

**Issue:** Public Smoking and/or Use

**Recommendation:** This issue should be left to the individual city or county to determine.

*Supporting Brief*

Local jurisdictions have adopted regulations regarding smoking restrictions. It is important to understand how the medicine works. A seizure patient for example may only have a minute or two to medicate to avoid a seizure. There should be limitation though on the extent that a local ordinance may inhibit a patient's ability to properly medicate when necessary. A serious concern for appropriate patient care is the outright prohibitions some cities have invoked.

**Issue:** Time frames for licensing

**Recommendation:** We recommend that this should be handled by administrative rule.

*Supporting Brief*

Since it takes up to six months for a caregiver to have available medicine grown for a new patient, a period of less than one year is not a realistic time frame. It is realistic to provide for longer license periods for certain medical conditions that could be adopted by administrative rule.

**Issue:** Driving under the influence (DUI)

**Recommendation:** This issue requires research to help determine when any individual that has used medicinal product is no longer able to operate a motor vehicle.

*Supporting Brief*

Ideally the legislature would request from a crime lab or other entity scientific proof of intoxication. THC can be in someone's system for up to 25 days after utilization of medicinal marijuana. The affect of some strains as outlined in the support material show very low THC content yet traces remain in the person's system. This is a national issue as well and requires a careful scientific approach to be fair and accurate.