



The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
Bureau of Health Care Safety and Quality
Medical Use of Marijuana Program
99 Chauncy Street, 11th Floor, Boston, MA 02111

CHARLES D. BAKER
Governor

KARYN E. POLITO
Lieutenant Governor

MARYLOU SUDDERS
Secretary

MONICA BHAREL, MD, MPH
Commissioner

Tel: 617-660-5370
www.mass.gov/medicalmarijuana

May 18, 2016

Nichole Snow
Executive Director, Massachusetts Patient Advocacy Alliance
P.O. Box 302242
Jamaica Plain, MA 02130

Re: March 4, 2016, Memo from the Massachusetts Patient Advocacy Alliance

Dear Ms. Snow,

Thank you for your memo dated March 4, 2016 outlining the concerns of the Massachusetts Patient Advocacy Alliance (MPAA) regarding the Medical Use of Marijuana Program (MMJ). We appreciated the discussion regarding these issues at our March 10, 2016 meeting. In follow up, please accept this letter summarizing the Department of Public Health's (DPH or Department) response to your key concerns.

1. Laboratory Testing Protocols

In your March 4th memo, you noted that while laboratory testing protocols have been released, you believed the protocols would have the consequence of limiting patient access by disallowing extractions.

As discussed at our March 10th meeting, the DPH *Protocol for Sampling and Analysis of Finished Medical Marijuana Products and Marijuana Infused Products for Massachusetts Registered Medical Marijuana Dispensaries* does not restrict the use of hydrocarbons when extracting oils from cannabis flower. The Department is continuing to engage stakeholders to refine guidance on hydrocarbons informed by (a) laboratory reports and data packages describing the measurement of butane in medical marijuana products sold in Massachusetts; and (b) analyses prepared by the Department and consulting scientists describing a proposed health-based standard.

2. Letter of Non-Opposition

MPAA raised concern regarding the Department's requirement for a letter of non-opposition to be provided as a component of the application process.

While MPPA has suggested the Department remove the letter from the process, or provide an alternative, the letter of support or non-opposition is required by 105 CMR 725.100(B)(3)(f). It serves an important purpose to ensure that the municipality is not opposed to hosting a Registered Marijuana Dispensary (RMD) and establishes a local engagement process. The provision of a letter of support or non-opposition, as well

as the local engagement required to secure it, streamlines the process so that RMDs know whether or not they are supported within a particular community or whether they should seek to site elsewhere. It also provides an important opportunity for the RMD applicants to educate the local community regarding the benefits of having a RMD in the community and to address concerns the community may have.

3. Terminally Ill Patients

MPAA raised concern about the time associated with issuing registration cards and the impact on terminally ill patients. Requests for registration cards are processed in the order they are received by the Department.

While there is no “fast track” option for individuals that designate themselves as terminally ill, it should be noted that the MMJ Program has made great strides in decreasing the length of time required to process new applications for all patient registrations. For instance, in November of 2015, the average processing time was approximately three weeks. Through focused quality assurance efforts, DPH has reduced processing times to currently 7-10 days. It is our goal to serve all patients in a timely and efficient manner, including those with terminal illnesses. For those having problems registering with our online registration system, they may call our support center at 617-660-5370.

4. Organ Transplants

MPAA raised the concern that patients are having difficulty accessing organ donor lists because of medical marijuana registration status and proposes that regulations be developed to address this issue.

As discussed in our meeting, the Department does not have control over restrictions on organ placement, as the National Organ Transplant Act and subsequent regulations establish federal oversight of organ procurement organizations through the Organ Procurement and Transplantation Network / United Network for Organ Sharing (UNOS).

5. Caregiver Waiver

Another issue raised by MPAA is the perception that caregiver regulations have not been developed with patient and caregiver input. MPAA expressed that patients believe the caregiver regulations are an important part of safe access and the full implementation of the Massachusetts Medical Marijuana program, and feels that registered caregivers should be able to grow medicine for more than one patient or provide medicine to another patient should the caregiver find another patient to grow for.

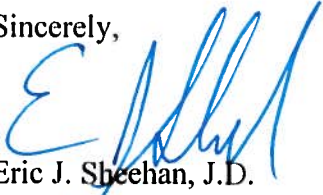
To address the issue of cultivation, the Department has partnered with law enforcement authorities. These authorities have significant public safety concerns regarding hardship cultivation, even at a 1:1 ratio, and any increase in that ratio would have to be supported by compelling evidence that larger grow operations in private residences do not pose a hazard to public safety or increased risk of diversion. Further, any increase in the 1:1 ratio would have to be evaluated as to whether it jeopardizes the ability of DPH to enforce its regulations and stay in compliance with federal law enforcement authorities. We are committed to ensuring access for those in need and RMDs currently under construction have expressed that they have home delivery programs planned.

6. HHS FAQ Memo Released to State Departments

In the memo, MPAA outlines its concerns with medical marijuana patients facing instances of discrimination with government entities. While marijuana remains a Schedule 1 substance under the Federal Controlled Substances Act, governmental entities are working carefully to navigate the differences between state and federal law. The Department is engaged in continuous outreach to other state agencies and is providing educational presentations regarding the Medical Use of Marijuana Program.

Thank you again for your correspondence and for meeting with the Department on March 10, 2016, to discuss these important issues.

Sincerely,

A handwritten signature in blue ink, appearing to read "E. Sheehan".

Eric J. Sheehan, J.D.
Interim Bureau Director
Bureau of Health Care Safety and Quality