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INC.

TO: Paul Hyland, Director, Office of Medical Marijuana (OMM)

FROM: Michael Owens, Task Lead, Delta Development Group, Inc.

SUBJECT: Medical Marijuana Stakeholder Group Public Meeting

REFERENCE: R.22096.00

DATE: November 16, 2022

The Medical Marijuana Stakeholder Group public meeting was held Wednesday, November 16, 2022, at 5:00 p.m., and was conducted using Zoom Webinar virtual meeting platform. The following were in attendance:

NAME/TITLE	ORGANIZATION
Paul Hyland Director	Division of Public Health (DPH)/OMM
Alanna Mozeik Legislative Liaison	DPH
Joanna Suder Deputy Attorney General	Department of Justice, Office of the Attorney General
Brett Applebaum	DPH/Office of Public Health Nursing
Clayton Hewes	First State Compassion
Dr. Andrew Willet	Science/Health Professional
Adele Abrams	Patient
Emily Wilkins	Patient
Aaron Epstein	CannTech Research
Holly Megan Smith	Patient
Dr. Jahan Marcu	Science/Health Professional
Kevin Kriss	American Fiber
Pamela Stampul	Patient
Kristopher Kiely	Fresh
Mark Lally	First State Compassion
Jennifer Stark	The Farm
Michael Owens Associate/Task Lead	Delta Development Group, Inc. (Delta)
Robert Ross Vice President	Delta
Diane Lizambri Associate	Delta

I. Welcome and Introductions

A. Michael (Mike) Owens welcomed everyone to the second public meeting for the Medical Marijuana Stakeholder Group. Mike announced the housekeeping guidelines for the proceedings of the webinar, mentioning that the meeting event would be recorded and that the webinar attendees, non-panelists, would remain muted during the meeting but would have chat and comment options available. Mike directed the group's attention to the meeting agenda and noted that during the public comment period, those present at the meeting as attendees would be provided the opportunity to speak and share any comments or feedback with the panelists, which incorporated the members of the stakeholder group.

B. Mike also stated to the members of the stakeholder group that the first order of business was to discuss the draft of the meeting minutes from the group's September public meeting. There were no comments or issues noted by members of the stakeholder group regarding the draft of the meeting minutes. The group agreed to approve the minutes from the September public meeting in their current state.

II. Medical Marijuana Program (MMP) Discussion

A. Mike introduced the topic of banking restrictions involved with the MMP as the initial program discussion topic included in the agenda. Mike explained to the group that banking restrictions were one of the top responses from participants providing feedback regarding program concerns when answering the survey sent by the Office of Medical Marijuana (OMM) in September.

1. Jennifer Stark stated that banking restrictions also affect the industry side of the program along with the patient population. The businesses in the industry deal with difficulties such as the inability to openly bank with any organizations in the state of Delaware which creates additional expenses and fees when banking out of state. Compassion centers are unable to obtain a bank loan, so private investors are used which often come with higher interest rates. The restrictions keep the companies from being able to obtain and use company credit cards. Finding retail space for the business is another difficultly connected to banking restrictions because shopping centers may have previous banking regulations that prevent them from allowing cannabis companies from owning space within their facilities. Aaron Epstein agreed that these difficulties are being observed by the other businesses operating in the state, and if a solution can be reached to allow for some banks to open up to the businesses within the cannabis industry, it could help to control expenses, which in turn could trickle down some savings to the patients of the MMP.

2. Aaron added that currently patients are only capable of purchasing products either using cash or certain registered debit cards which have high rates and transaction fees. A possibility to increase the number of options and level ease for patients to purchase product would be allowing the use of credit card purchases. However, it would likely take some sort of federal legislation that lowered the drug scheduling of cannabis products or a banking act. Adele Abrams commented that as a consumer, she agrees that being able to use a credit card for product purchase would be convenient for the customer base. Adele noted that through work and traveling around the country, she has noticed that there are multiple states that seem to be accepting credit cards. There may not be a federal legislation requirement but rather a case-by-case determination by different states to approve credit card use for purchase and may be a topic to explore and review the process for approval. Adele also noted that some patients are using cannabis now for treatment of workers compensation entries, and there is at least some case law requiring employers or insurance companies to reimburse it and it is much easier to do that if you have a credit card receipt that can

be provided. The final point made by Adele in support of cashless payment options is connected to the potential increase in worker safety, a risk factor for workplace violence is a large number of cash transactions. When a business makes an increased number of cash transactions during the course of daily operations it is at a higher risk of workplace violence occurring.

3. Paul Hyland told the group that he attended the cannabis banking meeting in Washington, D.C., and while some of these difficulties were discussed, there did not appear to be any resulting actions to respond to this issue. It does not appear that there is an indication of upcoming changes on the immediate horizon regarding banking restrictions. Paul commented that through review of some of the other states that have been able to work with cashless systems for purchasing, it did not appear that those systems have worked very successfully.

B. Flower availability was the next program discussion item on the agenda and Paul reviewed the numbers the OMM had currently regarding flower product availability. In the dispensaries around the state, there are 442 pounds of flower product with 102 different strains, and the calculated consumption rate of about six ounces per patient each year. The yearly demand for flower product is grown by the four compassion center operators; the patient demand runs about 81,000 ounces, and the program capacity is at 118,000 ounces. The current set organization capacity is to make sure the program can cover any increased demand over the next few years as the program population typically increases by about 15% a year.

   1. Mark Lally with First State Compassion commented that the feedback the organizations hear often from the customer base is regarding certain strains not being available. Many of the strains that the consumers are asking for are often specific strains that individuals encountered or used while in other parts of the country. Some of the limiting factors that the growing operators face is the capacity limit that the compassion centers have, the time it takes for the product to grow from seed to flower which controls how often new strains can be introduced, and the extensive number of strains that exist. Jennifer with The Farm and Aaron with Fresh acknowledged and agreed with the feedback the compassion centers received from patient comments and limitations that were mentioned by Mark. Aaron also noted that currently they are obtaining flower products from the other operator's that are growing, they expect to open a growing operation in 2023, and for their two locations that have opened in the past two months, have had adequate amount of product with 35 different strains available.

      a. Mark and Aaron both commented that what is evident in Delaware's program, and the product selection that is available, is a displayed focus on selecting a variety of strains that will provide benefits to fit the different afflictions that patients are obtaining their medical use cards for. Often the strains that people request are additional products with high Tetrahydrocannabinol (THC) content and Delaware does a good job producing a variety of terpene profiles in their varying strains, which provide a mix of THC and Cannabidiol (CBD) levels.

C. Cost of the flower product was another concern raised by the program participants when completing the survey and Paul stressed to the group the importance of finding a balance that not only makes the product affordable to the patient population, but also makes sure that the companies can cover their necessary expenses.

   1. Multiple industry members shared with the rest of the stakeholder group that ensuring patients are able to afford product is paid attention to and an important factor to the compassion centers. There

often many different ways that the centers are working to provide assistance with cost whether through discounts, sales, or specials to help make sure that there are affordable products for patients. Some products over time, such as flower, have seen some decrease in cost but a straight large cut in cost of product prices would be difficult, considering the expenses of producing the products and running the business. Adele commented having an article or information developed to be shared with the public explaining the cost factors which could help produce a positive impact. Focusing on points such as the legality of industry product versus off the street, and the testing conducted to ensure product safety.

D. Mike inquired if there were any compassion center representatives that would like to share information on new products coming to the market.

   1. Kristopher Kiely, Fresh Delaware, stated that Fresh is working on new manufactured infused products and are also releasing their own line of concentrated products early in 2023. Products include cartridges, edibles, topicals, tinctures, capsules, hash, and rosin.

   2. Clayton Hewes, First State Compassion, told the group about the release of inhouse vape cartridges which are rechargeable and include a disposable base with a one-to-one product line available. Clayton mentioned that they had also enhanced their edibles with new fruit chews which have a little bit more flavor, and they hope to launch a hot chocolate in the libation's product line.

E. Mike explained to the group that recently a bill was passed through the House in Delaware regarding the ability for MMP participants to legally purchase and possess firearms but was vetoed by the governor. Paul commented that there are federal laws concerning the legality of using cannabis products in a job that requires carrying a firearm, but for a standard citizen there is nothing that says these individual's that use cannabis cannot own a firearm. It was noted that on the federal form for purchasing a firearm, question 11E asks applicants about cannabis use and if answered truthfully, even the standard citizen would not be cleared for purchase.

   1. Dr. Andrew Willet commented that over the past couple years there have been instances where eligible patients turned down a marijuana card due to the fact that they would not be able to work a job carrying a firearm or had a personal reason and desire to own a firearm.

   2. Adele commented that this issue to make a decision between owning firearms and obtaining a medical card to treat eligible conditions is also seen often with veterans who may be able to benefit from cannabis treatment. Adele noted that if the president's call to remove cannabis from the controlled dangerous substance list is granted, this issue may be bypassed. She also mentioned some of the efforts and decisions made by other states, for example Illinois and Maryland, where people are grandfathered in with the ability to own firearms if their permit precedes getting a medical card, or the state police not taking action to intervene with those who possess a firearm permit and medical card.

F. The meeting was then opened to the stakeholder group to ask questions or address other program-related topics of interest that were not included on the agenda. Holly Smith discussed an interest in hearing from any of the scientific or health care professionals regarding cannabis use disorder or addiction from cannabis use. Through research she stumbled upon, it identified that about 30% of people that start using cannabis may suffer from one of the disorders eventually, and wonders if there may be a need to educate program participants on this information. Often when people hear

information about cannabis when growing up, the substance can often be portrayed as something that is not addictive like alcohol or cigarettes.

1. Brett Appelbaum mentioned that when discussing or comparing possible addiction or substance use disorder of cannabis to another substance like alcohol or heroine, the cannabis substance is relatively considered a more safe or less harmful substance in comparison. Dr. Jahan Marcu informed the group that cannabis use disorder is often measured on a spectrum that is determined through an eleven-point questionnaire. He noted that most medical use patients, if they are using cannabis as medication on a daily basis and follow medical guidelines and supervision, they are likely to score on that spectrum or scale with a result at the mild or moderate level. Dr. Marcu stressed the importance to determine how cannabis use disorder or addiction is being defined when reviewing any study or discussing the topic. Mark added that, in addition to how a study defines an addiction, the individual should also determine if the study is referring to a physical or psychological addiction because they are very different.

III. Scientific/Medical Marijuana Subject Matter Discussion

A. Driving Under the Influence (DUI) *Attachment 1*

1. Dr. Marcu provided a presentation on cannabis impairment and DUI. The presentation highlighted what cannabis impairment is, laws prohibiting driving while impaired by cannabis, associated public health issues, the challenges of determining thresholds of impairment for testing and determining DUI, and shared information on scientific studies completed regarding THC levels and impairment durations.

    a. It was mentioned that patients from Delaware should be aware that currently Pennsylvania is a zero-tolerance state. Dr. Marcu commented that he believes PA is trying to pass legislation but is unsure if it has passed, that would provide some protections to move the state from a zero-tolerance to more of a two-tier system. This would require more than just THC metabolites in the blood for a DUI conviction and may require a field sobriety test to charge for a DUI or DWI.

IV. Public Comment Period

A. A member of the audience asked what compassion centers, which are “not for profit” organizations, do if or when their profit margins reach their profit thresholds?

1. Paul confirmed that compassion centers are “not for profit” and are required to submit financial documents when their permits are being renewed which, in part, essentially validates that the profit margins are remaining in the proper levels. Aaron stated that he would like to begin by attempting to clarify the term “not for profit” explaining that it is a legal structure of a business in which the business does not disburse profits to owners more so than referring to a company that makes money. With the program’s businesses in the state of Delaware, if the organization generates revenue that exceeds their expenses, the money is reinvested into the business versus dispersed among the ownership members. Mark added that with the current laws that are in place, the cannabis organizations operate as “not for profit” business but are taxed as a corporation and as business of the state of Delaware follow the tax code 280 E rule. The rule sets the federal standard for taxing corporations or companies that are involved in the trafficking or selling of schedule one substances and does not allow for these companies to take normal business deductions that other regular companies are allowed. Due to this rule, the companies are not allowed to take any tax

deductions for things such as equipment that regular businesses typically are able to deduct, and that is where the reinvestment in the business occurs with the profits.

B. An additional question was asked directly to the members of the stakeholder group by a member of the public audience concerning whether Delaware has any current case studies on the success of medical marijuana use or if any of the compassion centers are conducting such research?

   1. Paul commented that in terms of studies on the success of medical marijuana use, the surveys being completed by OMM provide some data by having questions which gather information from program patients on how well the product being used addresses the qualifying conditions that their medical card was provided for. From the recent survey in which almost 1,400 responses were received, 73% said that it has been very helpful, and an additional 21% said that it was fairly helpful. Compassion center representatives did share that, based on comments both from patients and prescribing physicians, results would point to anecdotal evidence in support of success using medical marijuana to treat qualifying conditions. Dr. Marcu mentioned that successful use of medical marijuana is a large topic with a multitude of different ways to be interpreted by individuals. Dr. Marcu stressed the importance of epidemiology, physician case reports, and surveys being at the front line of public health research that is being done on the subject. Dr. Marcu did share information from a study that was done in Delaware in which the results indicated that first time cannabis patients showed a decrease in use of legally prescribed opioids during a six-month period as the study was being conducted.

V. Wrap-up and Next Steps

A. Mike and Paul wrapped up the meeting thanking everyone for attending and participating in the program discussions.

B. Delta will develop the meeting minutes for the stakeholder group.

C. OMM will place the minutes onto the DPH public meeting calendar with the meeting invitation and agenda.

VI. Adjournment

A. With there being no further business, the meeting was adjourned at 6:30 p.m.

Attachment 1 – Cannabis Impairment and DUI

Cannabis Impairment and DUI Update

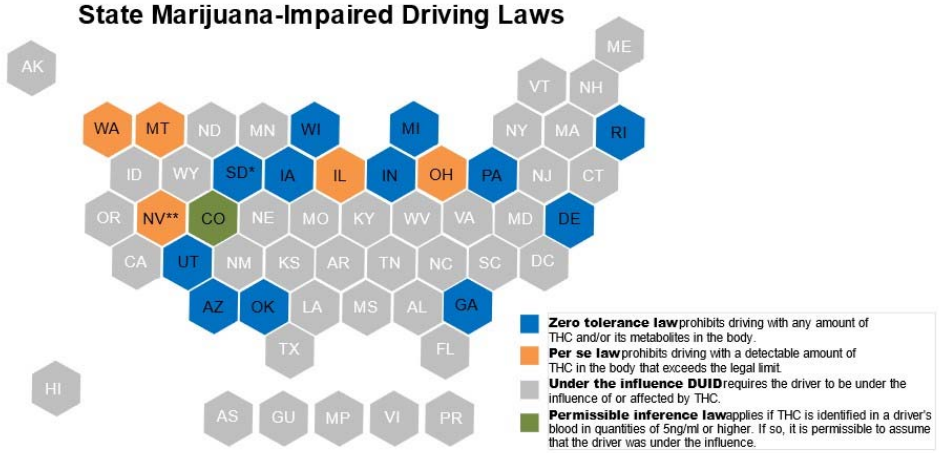
Jahan Marcu, PhD,
Marcuenterprises@gmail.com

Main References

Wurz, G. T. & DeGregorio, M. W. *Indeterminacy of cannabis impairment and Δ9-tetrahydrocannabinol (Δ9-THC) levels in blood and breath. Sci Rep-uk* **12**, 8323 (2022).

Kight, R., Marcu, J. & Phifer, R. *Medical Marijuana and DWIC: Medical and Legal Considerations.* American Journal of Endocannabinoid Medicine 2, (2019).

What is cannabis impairment? And why do we care?



https://www.ncsl.org/research/transportation/drugged-driving-overview.aspx
* South Dakota has a zero tolerance law for drivers under the of age of 21.
** Nevada's per se law of 2 ng/ml for THC and 5 ng/ml for THC metabolite only applies for felony violations.

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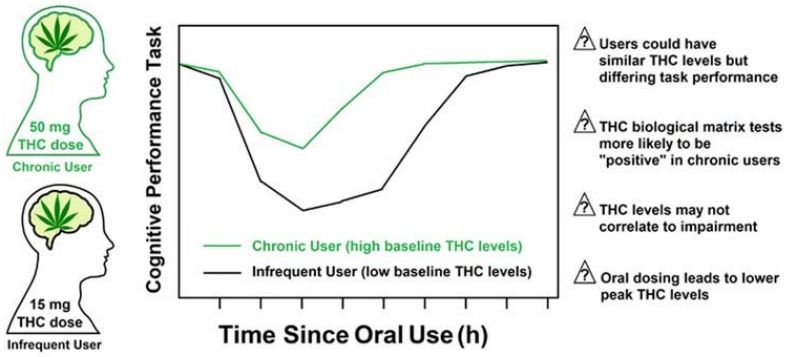
Public Health Issue of Cannabis & DUI/DWIC

- Harm to the individual
- Harm to the public
- Regulation
- Enforcement
- Cost

States with employment protections for medical cannabis patients:
AZ, AR, CT, DE, DC*, FL, GA, HI, ME, MI*, MN, NY, OH, PA,

States with **DUI** protections:
AZ, MI*, MN, RI



Johnson, O. E., Miskelly, G. M. & Rindelaub, J. D. Testing for cannabis intoxication: Current issues and latest advancements. *Wiley Interdiscip Rev Forensic Sci* **4**, (2022).

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Pitfalls of DUI and Thresholds

- Ability to monitor DUI of cannabis
- Identifying cannabinoids at autopsy
- Delays in blood testing
- Various exposure levels (Edibles vs inhalation)
- Peak effects of THC do not coincide with per se limits (i.e., 5ng/ml)

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Science

- Variable experiences and blood levels
- THC Brain concentrations
- Breath and blood correlate
- Product formulation

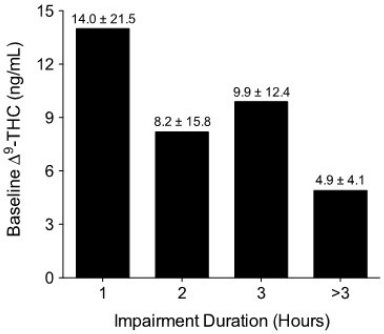

Figure 3. Post-smoking duration of impairment compared to baseline Δ^9-THC blood concentration in 64 subjects. As determined by self-assessment, subjects were stratified by duration of impairment [1 h ($N = 19$), 2 h ($N = 24$), 3 h ($N = 17$), > 3 h ($N = 4$)] after smoking a 500-mg cannabis cigarette. Mean Δ^9-THC concentration (± SD) is shown above each bar.

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Wurz, G. T. & DeGregorio, M. W. *Indeterminacy of cannabis impairment and Δ9-tetrahydrocannabinol (Δ9-THC) levels in blood and breath. Sci Rep-uk* **12**, 8323 (2022).

More Science

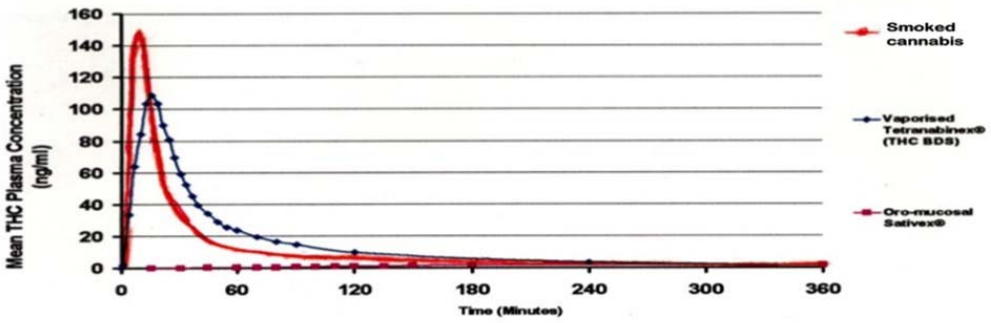

Figure 2: Comparison of pharmacokinetic peaks of Sativex® oromucosal spray containing 10.8 mg THC and 10 mg CBD (purple trace), vaporized Tetranabinex® with 6.65 mg THC (GWPK0114, data on file, GW Pharmaceuticals, blue trace), and smoked cannabis from a cigarette containing an estimated 34 mg THC[76, 77] (red trace). Note that the mean THC plasma concentration with Sativex never exceeds 2 ng/ml.

From: Russo EB. 2007. The solution to the medicinal cannabis problem. In: Schatman ME (ed.). *Ethical issues in chronic pain management.* Boca Raton, FL: Taylor & Francis.

Scientific Consensus

"In conclusion, we present further evidence that single measurements of Δ9-THC in blood cannot establish impairment, that single measurements of Δ9-THC in exhaled breath likewise do not correlate with impairment, and that Δ9-THCV and CBC may be key indicators of recent cannabis use through inhalation within the impairment window."

Several years of studies strongly suggests that there is currently no scientific justification for the use of per se legal limits for D9-THC.

Standard Field Sobriety Testing (SFST aka FST) for Impairment

Impaired performance on the SFSTs is positively related to the dose of THC administered

Designed for both alcohol and drug impairment

SFST Manual – detailed training for administration of tests

- Horizontal Gaze Nystagmus (HGN)
- Walk-and-Turn (WAT)
- One-Leg Stand (OLS)

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Summary

Legislation format	Strengths	Limitations	Examples
Zero-tolerance	• Can definitively identify exposure to cannabis	• Requires chemical analysis • Cannot differentiate intoxication from either current use, historical use, or passive exposure	Arizona (1990)[a], Sweden (1999)[b]
Behavioral impairment	• Can be conducted on-site • Does not require chemical analysis • Can potentially identify intoxication from cannabis inhalation • Non-invasive	• Not a definitive test for cannabis use • Analysis is subjective • May not be able to detect intoxication from oral use • Limited types of FSTs are useful	Canada (1925)[c], Australia (2000)[d]
Per se/nonzero	• Objective measurement of cannabis-related chemicals within the body • May be useful in identifying intoxication in occasional users	• Requires chemical analysis • Current analysis methods deployed are not feasible for rapid on-site testing • Per se limits may not represent intoxication in heavy users • Impairment may occur at less than per se limits in infrequent users or from oral use	Norway (1959) (1.3 ng/ml in blood (2012)[e]); Canada (2008)[f] (2.0 ng/ml in blood); Denmark (2007)[g] (1.0 ng/ml in blood); Washington (2010)[h] (5.0 ng/ml in blood)
Two-tier approach	• Combines two methods to identify intoxication • May be useful in identifying intoxication in occasional users	• Requires chemical analysis • Oral fluid screening techniques do not have high sensitivity or selectivity • Per se limits may not represent intoxication in heavy users • Impairment may occur at less than per se limits in infrequent users or from oral use	Belgium (1999)[i], Australia (2004)[d]

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Thanks!

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