

MINUTES

Medical Marijuana Oversight Committee



Senator Erin Tobin, Chair

Representative Ernie Otten, Vice Chair

Second Meeting, 2022 Interim

Tuesday, October 25, 2022

Room 362 – State Capitol

Pierre, South Dakota

Senator Erin Tobin called the meeting to order at 9:00 a.m. via teleconference and in Room 362 of the State Capitol, Pierre.

A quorum was determined with the following members answering the roll call: Joan Adam, Cam Corey, Christopher Dietrich (remote), Brian Doherty, Eric Grocott, Shawn Madison, Melissa Mentele (remote), Representative Taylor Rehfeldt (remote), Matthew Templar, Elizabeth Tiger (remote), Shon Van Hulzen (remote), Bryan Walz, Representative Ernie Otten (Vice Chair), and Senator Erin Tobin (Chair).

Staff members present included John McCullough, Chief Legal and Research Analyst, and Rachael Person, Administrative Specialist.

NOTE: For the purpose of continuity, the following minutes are not necessarily in chronological order. All referenced documents distributed at the meeting are hyperlinked to the document on the Legislative Research Council website. This meeting was live streamed. The archived live stream is available at sdlegislature.gov.

Approval of Minutes

Secretary Adam moved, seconded by Mr. Grocott, to approve the minutes of the July 14, 2022, Medical Marijuana Oversight Committee meeting. The motion prevailed on a voice vote.

Update of the Medical Cannabis Program

Ms. Lynn Valenti, Deputy Secretary, Department of Health (DOH), and Mr. Chris Qualm, Administrator of the Medical Cannabis program, gave an update on the Medical Cannabis Program ([Document 1](#)) and discussed the pop-up clinics that have taken place across the state.

Mr. Qualm said the DOH's goal is to develop and deliver a quality program for the citizens of South Dakota. Mr. Qualm covered the current numbers of approved patients and practitioners, the applications received, and the certified establishments in the state. As of October 24, 2022, there were 4,202 approved patients and 159 approved practitioners. The largest number of establishments are dispensaries while others are focused on cultivation, manufacturing, or testing.

Mr. Qualm said DOH is also focusing heavily on the inspection process to ensure consistency and quality in inspections.

Mr. Qualm pointed out the resources available on the program on the website (<https://medcannabis.sd.gov/>).

Mr. Qualm also discussed the proposed rules packet scheduled to be heard by the Rules Review committee at the November 11, 2022, meeting. The proposed rules packet included areas of interest discussed at the July 14, 2022, Medical Marijuana Oversight Committee meeting. Mr. Qualm said DOH reviewed the recommendations made and prioritized a few of the proposals.

Senator Tobin asked how many pop-up clinics had occurred and if DOH was able to obtain information from them such as how many card requests were made and how many patients they were serving in a day. Mr. Qualm said DOH was made aware of fourteen clinics taking place between May and October. Ms. Valenti said DOH often becomes aware that a pop-up clinic has occurred by the number of patient applications that come through their system which can sometimes be in the hundreds.

Representative Otten asked how broad the advertising is for the pop-up clinics. Ms. Valenti responded that it varies depending on the clinic, but can be anything such as yard signs, pamphlets, or social media sites.

Senator Tobin expressed concerns over the pop-up clinics being able to supply patients with a medical marijuana card in five minutes, as clinics have stated they can do, and said that while she appreciated the pop-up clinics supplying patients with something they may not be able to get somewhere else, the process should be more thorough.

Mr. Corey echoed Senator Tobin's concerns and said he was concerned the pop-up clinics are not following what is written in the law.

Mr. Walz said the pop-up clinics were not meeting the definition of a bona fide practitioner-patient relationship and the Committee should investigate that and make a determination of whether or not to continue to allow the kind of recommendations made at these clinics.

Ms. Tiger said the clinics are often the most direct way for patients to be able to obtain a medical marijuana card, and the fact that they can put patients through in five minutes reflects that all they really have to do is verify that a patient has a condition and recommend them through the state's portal for the program.

Ms. Mentele said the state's program should be one that involves primary care physicians and engages them in quality education and having the ability to track outcomes with the use of cannabis as a palliative or additional treatment for patients. Ms. Mentele added that the barrier many patients are experiencing is the healthcare systems are not allowing their physicians to write recommendations, making the pop-up clinics the only way for patients to obtain a medical marijuana card.

Public Testimony

Mr. Jeremiah M. Murphy, registered lobbyist, Cannabis Industry Association of South Dakota, Rapid City, spoke on the rules packet being discussed at the Rules Review committee and the struggles the industry is witnessing. Mr. Murphy said reciprocity is complicated for many people within the industry as well as patients from other states.

Mr. Murphy emphasized that the industry and DOH have been working very hard to make sure the medical cannabis program is successfully moving from a black-market economy to the well-regulated, transparent, legal economy the people of South Dakota want.

Senator Tobin asked if the process for out-of-state individuals to acquire a card was becoming too onerous for those traveling to the state. Mr. Murphy responded that it is a very onerous process, and many people are not aware of its existence. Because of this, Mr. Murphy said, they are coming to the state with their own state cards and are unable to get what they need.

Ms. Mentele said she has traveled extensively across the country and multiple states have accepted her South Dakota medical marijuana card. Ms. Mentele described the process she has gone through in those states and said

South Dakota's process should be similar, rather than requiring patients to fill out paperwork and be approved by DOH prior to traveling to the state.

Mr. Kittrick Jeffries, owner, Puffy's Dispensary, Rapid City, said because of the reciprocity issue, he has had to turn down over 400 non-resident cardholders from other states and the tribal programs. Mr. Jeffries provided examples of patients who were unaware of South Dakota's requirements for obtaining approval prior to arrival and are unable to travel with medical cannabis.

Mr. Jeffries also shared his experience with patients struggling with only being allowed to buy three ounces of cannabis or its equivalent every two weeks and encouraged the committee to consider increasing the three-ounce possession limit.

Ms. Tiger said patients who visit South Dakota should be able to use their home state issued cards without difficulty as the dispensaries are going to heavily weigh the validity of the cards.

Mr. Templar recommended researching the model for concealed carry permits and the possibility of using that model as a base for reciprocity. However, Mr. Templar said, it may not be effective while marijuana remains illegal at the federal level.

Mr. Emmett Reistroffer, Genesis Farms, Box Elder, encouraged Committee members to visit the marijuana facilities across the state, and thanked the DOH for being customer oriented. Mr. Reistroffer also spoke about the Delta 8 variant and the dangers it presents to the industry.

Possible Legislation

Secretary Adam presented [Bill Draft 156](#) and said by bringing this legislation forward, very specific debilitating medical conditions would be recognized in statute. Secretary Adam also pointed out that the legislation would repeal the petition process and remove DOH from having authority over adding debilitating medical conditions via rule, giving the authority to the legislature.

Ms. Tiger and Ms. Mentele both voiced concern over losing the patient voice in the process. Ms. Mentele said the process is currently with DOH where it should be. Ms. Mentele added that moving the process to the Legislature would change a private petitioning process to a public one, and patients should not have to divulge their personal information to have a voice with the Legislature.

Ms. Tiger cautioned that in the instance of the Medical Marijuana Oversight Committee being removed, patients need to have a way to petition for a new condition to be added to the law.

Secretary Adam moved, seconded by Representative Otten, that Draft 156 move forward into the 2023 Legislative session with support from the Medical Marijuana Oversight. The motion prevailed unanimously on a roll call vote. Voting AYE: Adam, Corey, Dietrich, Doherty, Grocott, Madison, Mentele, Rehfeldt, Templar, Tiger, Van Hulzen, Walz, Otten, and Tobin.

Mr. Doherty presented a draft for possible legislation ([Document 2](#)) which would allow disabled veterans to be eligible for a medical marijuana card. Mr. Doherty said the Veterans Administration (VA) cannot refer a disabled veteran to the program, and his proposal is an attempt to help veterans access medical marijuana if they qualify and choose to do so.

Mr. Grocott moved, seconded by Representative Otten, that the Medical Marijuana Oversight Committee make a recommendation to the Executive Board that the Legislature review issues related to veterans' access to medical marijuana and to consider options to improve that access. The motion prevailed on a roll call vote with 13 voting AYE and 1 EXCUSED. Voting AYE: Adam, Corey, Dietrich, Doherty, Grocott, Madison, Mentele, Rehfeldt, Templar, Tiger, Walz, Otten, and Tobin. EXCUSED: Van Hulzen.

Adjournment

Mr. Grocott moved, seconded by Secretary Adam, that the Medical Marijuana Oversight Committee be adjourned. The motion prevailed on a voice vote.

The Committee adjourned at 11:43 a.m.