STATE HEALTH COUNCIL
May 9, 2017

A meeting of the State Health Council was called to order by Acting Chairman Leona Koch at 9:00 a.m. on Tuesday, May 9, 2017 in Room 212 of the Judicial Wing, State Capitol, Bismarck, ND.

Members present:
Leona Koch, Raleigh, Secretary
Greg Allen, Jamestown (by phone)
Howard Anderson, Turtle Lake
Mike Holmes, Grand Forks
Gordon Myrchin, Grand Forks
Duane Pool, Bismarck
Jennifer Schaeffer, Medora

Members absent:
Wade Peterson, Mandan, Chairman
Genny Dienstmann, Bismarck, Vice Chairman
Jerry Jurena, Bismarck
Dennis Wolf, Dickinson

Staff members present:
Mylynn Tufte, State Health Officer
Arvy Smith, Deputy State Health Officer
Kirby Kruger, Medical Services Section
Londa Rodahl, Recording Secretary
Bobbie Will, Primary Care Office

Others present: See ATTACHMENT A

Minutes

GORDON MYRCHIN MOVED THE APPROVAL OF THE FEBRUARY 22, 2017 MINUTES AS DISTRIBUTED. SECOND BY HOWARD ANDERSON AND CARRIED.

Audit Reports

Mr. Myrchin reported that the State Health Council Audit Committee had met and he presented the audit reports for the Medical Services Section and the Department's travel expense compliance and recommended their approval.

GORDON MYRCHIN MOVED THE APPROVAL OF THE MEDICAL SERVICES SECTION AUDIT REPORT OF DECEMBER 9, 2016. SECOND BY HOWARD ANDERSON AND CARRIED.

GORDON MYRCHIN MOVED THE APPROVAL OF THE TRAVEL EXPENSE COMPLIANCE AUDIT OF FEBRUARY 14, 2017. SECOND BY DUANE POOL AND CARRIED.

Arvy Smith reported that the Department no longer has an internal auditor and are now considering a compliance auditor that would work with the Accounting Division. This person
would develop a yearly workplan, conduct compliance audits, subrecipient contract monitoring, fraud risk assessments, and oversight of the controls for medical marijuana. This person would report directly to the Accounting Director, rather than the Health Council, but could report back yearly to the Council. Mr. Myerchin stated he felt this was adequate and to discontinue the Health Council Audit Committee.

HOWARD ANDERSON MOVED THAT THE COMPLIANCE OFFICER SHOULD REPORT YEARLY TO THE HEALTH COUNCIL. SECOND BY MIKE HOLMES AND CARRIED.

Loan Repayment Applications

Bobbie Will presented the dental loan repayment applications along with the committee’s recommendations to fund four dentists.

HOWARD ANDERSON MOVED THE APPROVAL OF THE DENTIST LOAN REPAYMENT APPLICATIONS FOR: JOSEPH ALLRED, DDS; ALEXA CARLSON, DMD; SARA KLEVEN, DDS; AND SARAH MERTZ, DDS, EACH FOR $100,000. SECOND BY JENNIFER SCHAEFFER.

The Chair requested a roll call vote and the MOTION CARRIED. Allen, Anderson, Holmes, Koch, Myerchin, and Schaeffer voted ‘aye’. Pool abstained. There were no ‘nay’ votes. Dienstmann, Jurena, Peterson and Wolf—absent.

Duane Pool abstained because his wife is the current president of Bridging the Dental Gap and two of these recipients practice there.

Ms. Will presented the behavioral health loan repayment applications and stated there was funding for six as well as two psychologists, although only one psychologist application was received. She gave the committee’s recommendations for these awards.

DUANE POOL MOVED THE APPROVAL OF BEHAVIORAL HEALTH LOAN REPAYMENT APPLICATIONS FOR: JENNIFER EBERLE, LPC, $20,000; KAYLA HOCHSTETTLER, LSW, $20,000; LEANN KAHN, LPC, $20,000; RHIANON KORBYN, NP, $10,000; ANTONIA POPO, LSW, $20,000; NANCY STUTE, LSW, $20,000; AND PSYCHOLOGIST MERYL WILLERT, $31,000. SECOND BY HOWARD ANDERSON.

The Chair requested a roll call vote and the MOTION CARRIED. Allen, Anderson, Holmes, Koch, Myerchin, Pool and Schaeffer voted ‘aye’. There were no ‘nay’ votes. Dienstmann, Jurena, Peterson and Wolf—absent.

Ms. Will presented the midlevel provider loan repayment applications and stated there was funding for four and gave the committee’s recommendations.

HOWARD ANDERSON MOVED THE APPROVAL OF THE ADVANCED PRACTICE REGISTERED NURSE OR PHYSICIAN ASSISTANT LOAN REPAYMENT APPLICATIONS FOR: WHITNEY CHAMPA, PA; DESIRAE DINIUS, PA; LAURA ERMER, PA; AND MEGAN OASE, NP, EACH FOR $20,000. SECOND BY DUANE POOL.

The Chair requested a roll call vote and the MOTION CARRIED. Allen, Anderson, Holmes, Koch, Myerchin, Pool and Schaeffer voted ‘aye’. There were no ‘nay’ votes. Dienstmann, Jurena, Peterson and Wolf—absent.
Ms. Will presented the physician loan repayment applications and gave the committee recommendations to fund four.

GORDON MYERCHEIN MOVED TO APPROVE THE PHYSICIAN LOAN REPAYMENT APPLICATIONS FOR: JESSIE FAUNITLEROY, MD, $100,000; JUSTIN ROSENAU, MD, $45,000; BAILEY RUNKLES, MD, $100,000; AND MATTHEW VISCITO, MD, $100,000. SECOND BY DUANE POOL.

The Chair requested a roll call vote and the MOTION CARRIED. Allen, Holmes, Koch, Myerchin, Pool and Schaeffer voted ‘aye’. There were no ‘nay’ votes. Anderson, Dienstmann, Jurena, Peterson and Wolf—absent.

Ms. Will presented the Federal State Loan Repayment Program (SLRP) applications, which are federal and state/community match funds, for: Carrie Gerving, NP ($7500); Carey Rivinius, NP ($10,000); and Whitney Thompson, PA ($37,345.68). She asked the Council’s approval of these applications.

DUANE POOL MOVED THE APPROVAL OF THE FEDERAL STATE LOAN REPAYMENT APPLICATIONS FOR CARRIE GERVING, CAREY RIVINIUS AND WHITNEY THOMPSON. SECOND BY MIKE HOLMES.

The Chair requested a roll call vote and the MOTION CARRIED. Allen, Anderson, Holmes, Koch, Pool and Schaeffer voted ‘aye’. There were no ‘nay’ votes. Dienstmann, Jurena, Myerchin, Peterson and Wolf—absent.

**Primary Care Office**

Ms. Will stated House Bill 1035 passed and that makes the penalty for a contract breach of the dental loan repayment program consistent with that of the other programs. Senate Bill 2034 failed and that concerned the nursing faculty loan repayment program. Senate Bill 2162 failed which would require participants in the dental loan repayment program to accept Medicaid patients or serve in a public health clinic, a clinic focused on underserved or a nonprofit dental clinic. However, 2162 was then combined with a professional student exchange program and it failed again. It was then put into the Department's budget bill (SB 2004) and passed.

Ms. Will reported Dr. Molly Orcutt-Wood was approved for the physician loan repayment program on April 20, 2016 for $100,000 for five years and her first payment would have been this summer. Dr. Orcutt-Wood was a psychiatrist at the Southeast Human Service Center in Fargo and has since left that facility so will not receive any of those funds.

It was questioned whether that $100,000 could be used to fund another psychiatrist from today's applications.

DUANE POOL MOVED THE APPROVAL OF THE PHYSICIAN LOAN REPAYMENT APPLICATION FOR $100,000 FOR DR. ERIC TEE, WHO IS A PSYCHIATRIST AT PRAIRIE ST. JOHN'S IN FARGO, ND. SECOND BY JENNIFER SVAEBEER.

The Chair requested a roll call vote and the MOTION CARRIED. Allen, Anderson, Holmes, Koch, Myerchin, Pool and Schaeffer voted ‘aye’. There were no ‘nay’ votes. Dienstmann, Jurena, Peterson and Wolf—absent.
Ms. Will noted the Department’s Primary Care Office (PCO) previously worked with UND’s Family & Community Medicine office with Mary Amundson doing much of the work on shortage designations. The Department’s PCO is now contracting with the UND Center for Rural Health for this work as their work closely aligns with the PCO. The Department’s website links to their office, which works with the Health Service Corps, J-1 visas and will be doing much of the promotion of programs in the rural areas.

**Section Update**

Kirby Kruger presented the Medical Services Section update.

**Legislative Update**

Arvy Smith reviewed the Department’s budget and summary of legislation resulting from the 2017 Legislative Session. She also distributed a final bill summary of Senate Bill 2344 regarding medical marijuana (Attachment B).

The meeting adjourned at 11:11 a.m.

Submitted,

[Signature]

Leona Koch, Secretary
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<tr>
<td>Robyn Engelstad</td>
<td>1717 N 26th St</td>
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<td>June Herman</td>
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<tr>
<td>Courtney Korbel</td>
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<td>ND Med Assoc</td>
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<tr>
<td>Kirby Kruger</td>
<td>9655 E Main Ave, Biv</td>
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<td>Bobbie Will</td>
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Senate Bill 2344
Final Bill Summary

Key:
CC - Compassion Center - generic term for manufacturers (growers/producers) and dispensaries (sellers)
DC - Designated Caregiver - buys on behalf of up to 5 patients including themselves
QP - Qualified Patient - registered with DoH with certification from physician that they are under their care, have a qualifying condition and may benefit from marijuana use for that condition

Clarifications and Corrections

- Clearly defines terms used in the bill including available forms and amounts of medical marijuana.
- Defines the health care provider, who certifies qualifying patients to use medical marijuana, to include physicians or advanced practice registered nurses.
- Removes or clarifies confusing and conflicting language used in Measure 5.
- Removes reference to Delaware rules and Delaware law.
- Provides DoH general rulemaking authority including packaging and labeling, transportation, disposal, and laboratory testing requirements.
- Adds decriminalization language which specifically prohibits the arrest or prosecution of an individual engaged in any lawful activity specifically authorized by the chapter.
- Aligns CC application review criteria with application requirements.

Safety and Diversion

- Allows patients to purchase 2.5 oz. of dried leaves or flowers in a combustible delivery form every 30 days and possess no more than 3 oz. at any time. The patient’s health care provider authorization is required for the patient to use dried leaves and flower. Vaping is not restricted. (M5 allowed 3 oz. every 14 days and all forms of use.)
- Allows a patient to purchase medical marijuana products with a maximum concentration of THC of 2,000 mg every 30 days. Provides a maximum concentration of THC in each serving for various medical marijuana products. Medical marijuana products include extracts, tinctures, capsules, topicals, and transdermal patches. (M5 did not address this.)
- Limits the maximum concentration of THC in pediatric medical marijuana products at 6%. Minors are NOT authorized to use dried leaves or flowers in a combustible form. A minor is defined as an individual under age 19. (M5 did not define a minor, was silent as to limitations of THC and did not limit forms of use.)
- Requires seed to sale bar coding which tracks marijuana from seed to distribution to the end consumer. (M5 required tracking but did not specify “seed to sale” bar coding.)
- Prohibits use of medical marijuana by minors without the authorization of a parent or legal guardian and removes Senate requirement for approval by a pediatric physician for use by a minor. A parent or legal guardian must purchase, possess, and dispense the product to the minor. (M5 did not address this.)
- Prohibits the sale of edibles or marijuana infused food products. (M5 allowed all forms of marijuana use.)
- Prohibits the possession and consumption of medical marijuana on public and private schools, public or private school sponsored events, correctional facilities, and daycare facilities.

Efficiency, Cost Effectiveness and Diversion

- Requires business entity, corporation or limited liability company, to register with the North Dakota Secretary of State and provide evidence of good standing. Removes the requirement for CC agents (owners, investors, employees, volunteers) to be North Dakota residents. (M5 required all CCs to be non-profit entities and all CC agents to be residents of North Dakota.)
- Home grow option removed to comply with the US DOJ Cole memo which requires the prevention of diversion to illegal markets. Removal also lessens the fiscal burden, avoids the threat to public health and safety, and reduces the burden on law enforcement. (M5 allowed qualifying patients and designated caregivers to grow.)
- Establishes fees for qualifying patients and designated caregivers at $50 annually, compassion center agents at $200 annually, dispensaries at $90,000 every two years, and manufacturing facilities at $110,000 every two years. (M5 did not indicate fee amounts for QPs and DCs and required a $25,000 fee for CCs every two years.)
• Establishes the number of manufacturing facilities (growers) at 2 and the number of dispensaries (patient point of sale) at 8; additional manufacturing facilities and dispensaries can be added by the DoH if access is insufficient. (M5 did not limit the number of growers and sellers.)

• The number of marijuana plants a manufacturing facility may possess is 1,000 plus an additional 50 plants for research and development. Dispensaries are limited to 3,500 ounces of marijuana. (M5 included the 1,000 plant and 3,500 ounce limits but did not include 50 additional plants for research and development.)

• Requires a criminal history record check for all designated caregivers and compassion center agents. Individuals with a drug related misdemeanor conviction within five years of application, or a felony conviction, are prohibited from participating as a designated caregiver or compassion center agent. Qualifying patients are NOT subject to a criminal history record check. (M5 was similar to this.)

• Requires manufacturers and dispensaries to have a local permit prior to DoH approval. (M5 did not include this requirement.)

• Requires bond to ensure adequate clean-up of a manufacturer or dispensary. (M5 did not include this requirement.)

• Requires dispensaries and manufacturers to have business plans, policies, and financial records which are available for review and audit by DoH. (This is consistent with M5.)

• Allows terminal illness as a qualifying debilitating medical condition. (M5 and Senate versions did not include terminal illness.)

• Removes the authority for the DoH to provide onsite assessment of all cardholders. (M5 and the Senate version allowed immediate access by the DoH for onsite assessment of cardholders.)