



## Arizona Medical Board

9545 East Doubletree Ranch Road • Scottsdale, Arizona 85258

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### **DRAFT MINUTES FOR THE MEDICAL MARIJUANA SUBCOMMITTEE TELECONFERENCE MEETING Held on Wednesday, February 16, 2011 9545 E. Doubletree Ranch Road - Scottsdale, Arizona**

#### ***Subcommittee Members***

Paul M. Petelin Sr., M.D., Chair

Patricia R. J. Griffen

William J. Thrift, M.D.

#### **CALL TO ORDER**

Dr. Petelin called the meeting to order at 12:05 p.m.

#### **ROLL CALL**

The following Subcommittee members participated telephonically: Dr. Petelin and Dr. Thrift. The following Subcommittee member was absent: Ms. Griffen.

#### **CALL TO THE PUBLIC**

There were no individuals present who spoke during the call to the public.

#### **APPROVAL OF MINUTES**

**MOTION: Dr. Thrift moved to approve the February 9, 2011 Medical Marijuana Subcommittee Meeting Minutes.**

**SECONDED: Dr. Petelin**

**VOTE: 2-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.**

**MOTION PASSED.**

#### **NON-TIME SPECIFIC ITEMS**

##### **I. Review of the Arizona Department of Health Services' (DHS) Medical Marijuana Draft Rules and Consideration of Potential Amendment Recommendations**

Lisa S. Wynn, Executive Director

Ms. Wynn informed the Subcommittee that she submitted a letter in January 2011 to DHS regarding issues raised at the meeting that she attended of the four regulatory boards. Dr. Petelin questioned whether the issues raised in January were incorporated into the Draft Rules. Ms. Wynn stated that the letter included a joint set of comments from the four boards. She stated one issue raised involved the requirement for physicians to utilize the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database prior to issuing a certificate for medical marijuana. She stated that the four boards discussed how their databases are managed, how the boards will refer complaints regarding their licensees to one another, and database queries to monitor the frequency of physician certification. Ms. Wynn stated that DHS was receptive to input from the four boards, and that the issues were incorporated into the revised Draft Rules that were published on January 31, 2011. Dr. Petelin questioned how physicians will monitor patients to verify whether the patient has already received certification for medical marijuana from another provider. Ms. Wynn stated that each patient that qualifies for certification will only receive one certificate, and she pointed out that the certification will come from DHS.

Subcommittee Members were provided with a draft of the proposed recommended amendments to the DHS's Draft Rules. Ms. Wynn reported that the proposed recommended amendments have not been submitted to DHS. Subcommittee Members reviewed the draft, and discussed the recommended amendments. Dr. Thrift explained that there should be process for tincture, which should follow the United States Pharmaceutical National Formulary Procedure standards. Dr. Petelin questioned whether the dispensaries will have the sophistication to do tinctures. Dr. Thrift stated that it may not be possible, but pointed out that the infusions that will occur at the dispensaries are a similar type of process. Ms. Wynn recommended that the Subcommittee consider requiring dispensaries to utilize standards *equivalent* to the United States Pharmaceutical National Formulary Procedure standards due to the fact that pharmacists may not be working at the dispensaries. Dr. Thrift agreed and noted that the FDA will not be certifying the process for medical marijuana. Dr. Thrift suggested amending section 2 of the draft of proposed recommended amendments to include under the calculating of

dosages and permitting tincture that it shall be done according to standards equivalent to the United States Pharmaceutical National Formulary Procedures standards for accurate dosing.

Ms. Wynn reported that she and Dr. Petelin attended the DHS meeting for public comment on February 15, 2011. Dr. Petelin noted that one public speaker reported that 718 dispensaries are currently authorized in the State of Colorado. The speaker also pointed out that the dispensaries are being monitored to ensure that they are operating at the State's standards, and that eventually, the number of dispensaries may be decreased to a third of the amount. Dr. Petelin stated that another public speaker raised the issue of DHS certifying dispensaries on a random basis. Dr. Petelin expressed concern with the description of a Medical Director under R9-17-312(A) as it does not specify that the appointed individual must be a *licensed* physician. Dr. Petelin recommended that the Draft Rules include in its definition that the individual must be a licensed physician with an active license from one of the four regulatory boards; Dr. Thrift agreed. Ms. Wynn suggested that the change be made to the definitions portion of the Draft Rules under R9-17-101, to include a definition of "Medical Director" in order to address the Subcommittee's concerns.

Ms. Wynn questioned whether it would be appropriate for the Board to establish a Substantive Policy Statement to state that certification of medical marijuana shall be equivalent to prescribing a controlled substance for the purposes of determining whether a physician has committed unprofessional conduct in cases involving medical marijuana certification of immediate family members. Jennifer Boucek, Assistant Attorney General, Legal Advisor, pointed out that the drafters of the initiative intended to distinguish certification from prescribing to avoid conflict with existing federal laws. She stated that someone could challenge the policy statement on the ground that it is more appropriate to have the issue in the form of a Rule. She also stated that the Subcommittee may recommend that the Draft Rules include the concern regarding a physician certifying immediate family members for medical marijuana. Dr. Petelin questioned whether the Attorney General's Office has provided a legal opinion regarding whether physicians should be concerned with their DEA registrations if they choose to participate in the medical marijuana certification process as it is currently established. Ms. Boucek stated that she will follow up with the Attorney General's Office to ascertain whether a legal opinion has been published.

Ms. Wynn clarified for the Subcommittee members that the revisions to the draft of the proposed recommended amendments will include a section regarding concern with physicians certifying immediate family members, that the tincture process shall have standards equivalent to the United States Pharmaceutical National Formulary Procedure standards, and that the definitions specify that a dispensary Medical Director shall be an actively licensed physician from one of the four regulatory Boards. Ms. Wynn stated that the draft letter will be submitted to DHS on Friday, February 18, 2011, and that the final Rules will be published by DHS on March 28, 2011.

The meeting adjourned at 12:35 p.m.



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Lisa S. Wynn, Executive Director