



New Mexico State Legislature

STATE CAPITOL

Santa Fe

June 10, 2014

VIA U.S. Mail and Electronic Mail

Retta Ward, Secretary
Department of Health
1190 St. Francis Drive, N-4100
Santa Fe, NM 87502-6110

Re: Request for Suspension of Adoption of Proposed Rules Relating to the Lynn and Erin Compassionate Use Act Medical Cannabis Program

Dear Secretary Ward:

As chair and vice chair of the Legislative Health and Human Services Committee ("Committee"), we are writing on behalf of the Committee's membership as well as on behalf of the more than 10,000 New Mexicans who are participants in our state's medical cannabis program to respectfully request that the Department of Health (DOH) suspend adoption of the rules that the DOH has proposed pursuant to the Lynn and Erin Compassionate Use Act (LECUA).

New Mexico has been a leader in medical marijuana policy in the United States since 1978, when the legislature passed the Controlled Substances Therapeutic Research Act, and again in 2007, when the LECUA was passed. With passage of the LECUA, New Mexico became the first state to regulate licensing of medical marijuana producers at the state level. Then, in 2009, New Mexico became the first medical marijuana state to specifically include posttraumatic stress disorder as a qualifying condition for our medical marijuana program. Across the country, states have followed the path pioneered by the medical marijuana program in New Mexico.

Compared to most other states with medical marijuana laws, New Mexico's program is small, though participation steadily increased from 2007 to 2013. By most measures, the LECUA is a great success. In fact, a survey completed by the DOH in 2013 showed that 98.4% of patients polled said they benefited from participating in the New Mexico medical cannabis program. The survey also showed that one of the primary

Retta Ward, Secretary

June 10, 2014

Page 2

problems that patients had with the program was that there was not enough medical marijuana supplied by the 23 licensed nonprofit producers (LNPP) operating in the state to serve patients' needs.

We applaud the DOH for the announcement earlier this year that the LECUA medical cannabis program would address the supply crisis by increasing the number of cannabis plants the LNPPs are allowed to grow and that the DOH would license up to 12 additional producers.

However, the DOH has proposed a major overhaul of the LECUA program rules. Our constituents have raised many concerns about these rules. After hearing our constituents' concerns at the Committee's May 23, 2014 meeting, the members of this Committee unanimously voted to formally register written comment opposing the adoption of the LECUA program rule changes until the DOH has engaged in further consultation with stakeholders and experts.

We call upon the DOH to pay close attention to the intent and objective of the LECUA when considering any changes to the administration of the program. Of particular concern is the proposed removal of the requirement for the DOH to evaluate the program's effectiveness in meeting the needs of medical marijuana patients in New Mexico. Removal of this requirement could be more appropriately made by passing a law to amend the LECUA instead of through DOH rulemaking.

It is clear that the proposed DOH rules would have an enormous impact upon medical cannabis consumers, prescribers, producers and distributors participating in the LECUA program. Therefore, these stakeholders must have ample opportunity to make their opinions heard. To this end, we request that the DOH conduct stakeholder meetings statewide, with sessions held specifically for consumers, prescribers and advocates and separate sessions for medical cannabis producers and distributors.

Moreover, the LECUA requires the DOH to consult with an established advisory board of medical professionals before adopting rules pursuant to that act. *See* Section 26-2B-7 NMSA 1978. We propose that the DOH hold a formal consultation with this advisory board before adoption of the proposed rules.

The Committee also seeks an opportunity to hold a public meeting of the Committee on this subject in Taos on July 17, 2014, at which we request testimony from you and your staff as well as testimony from the public relating to the proposed rules.

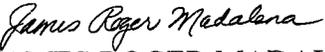
We therefore respectfully request that adoption of the rules be suspended until after the following events have taken place: (1) the Committee's July 17 public meeting on the

Retta Ward, Secretary
June 10, 2014
Page 3

proposed LECUA program rules; (2) the DOH's formal stakeholder consultations statewide; and (3) a formal consultation between the DOH and the medical professional advisory board established pursuant to the LECUA.

Thank you for your consideration of this pressing matter. We eagerly await word of your contemplated action.

Sincerely,


JAMES ROGER MADALENA
State Representative, District 65
Chair, Legislative Health and Human
Services Committee


GERALD ORTIZ Y PINO
State Senator, District 12
Vice Chair, Legislative Health and
Human Services Committee

cc: The Honorable Susana Martinez, Governor of New Mexico
Tres Hunter Schnell, Office of Policy and Accountability, DOH

JRM/GOP:ar