Iowa Department of Public Health
Protecting and Improving the Health of Iowans

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Director

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Memorandum

To: State Board of Health
From: Gerd W. Clabaugh, Director
Date: June 5, 2017
Re: HF 524 - Medical Cannabidiol Act

The purpose of this memorandum is to provide a basic overview of HF 524, the new Medical Cannabidiol Act, highlighting significant differences between the new law and the former law as well as detailing IDPH's initial implementation plans and the role of the State Board of Health in implementation.

Legislation Overview

HF 524, signed by Gov. Branstad on May 12, 2017, makes a number of changes to the existing medical Cannabidiol Act, passed in 2014. Notable changes include:

1. An expanded list of medical conditions for which IDPH is able to issue a medical cannabidiol registration card. The expanded list of conditions includes:
    a. Cancer, if the underlying condition or treatment produces one or more of the following - severe or chronic pain, nausea or severe vomiting, cachexia or severe wasting
    b. Multiple sclerosis with severe and persistent muscle spasms
    c. Seizures, including those characteristic of epilepsy
    d. AIDS or HIV
    e. Chrohn's disease
    f. Amyotrophic lateral sclerosis
    g. Any terminal illness with a life expectancy of less than one year if the illness or treatment produces one or more of the following - severe or chronic pain, nausea or severe vomiting, cachexia or severe wasting
    h. Parkinson's disease
    i. Untreatable pain (defined as any pain whose cause cannot be removed and, according to generally accepted medical practice, the full range of pain management modalities appropriate for the patient has been used without adequate result or with intolerable side effects
2. Establishment of a medical cannabidiol board with a list of specifically enumerated duties, including making recommendations for expansion or retraction of eligible medical conditions (recommendations must be adopted by the Board of Medicine by rule), working with IDPH on requirements for licensure of manufacturers and dispensaries, advising IDPH as to locations of manufacturers and dispensaries and making recommendations about form and quantity of allowable medical uses of medical cannabidiol (recommendations must be adopted by the General Assembly).

3. Establishes a requirement for IDPH to select and license up to two manufacturers and up to two out-of-state dispensaries by December 1, 2017. The statute contains a number of requirements manufacturers are required to meet.
4. Establishes a requirement for IDPH to select and license up to five dispensaries by April 1, 2018. The statute contains a number of requirements dispensaries are required to meet.
5. Establishes a fee schedule for registration card applications ($100 is the standard fee, $25 for patients that attest to receiving SSDI, SSI or Medicaid benefits), manufacturer applications ($7,500) and dispensary applications ($5,000).
6. Requires IDPH to establish and implement a real-time, statewide medical cannabidiol registry management sale tracking system available to dispensaries on a 24/7 basis for the purpose of verifying a person is lawfully in possession of a medical cannabidiol registration card and for tracking the date of the sale and quantity of medical cannabidiol purchased by a patient or a primary caregiver.

Implementation Tasks

1. Adoption of administrative regulations to implement the law. Administrative regulation adoption will be separated into two distinct phases.
    a. Phase 1 rules – amend the existing registration card process rules adopted by the State Board of Health in 2015 to reflect the changes required by the 2017 law. This is the set of rules to be considered by the State Board of Health on June 8. The original Medical Cannabidiol Act was repealed upon enactment and there is currently no process in place for IDPH to accept new registration card applications from any patient, including those with epilepsy. With the consent of the State Board of Health, IDPH plans to seek approval from the Administrative Rules Review Committee to file these rules as emergency administrative rules. This will allow IDPH to start accepting applications for patient registration cards at the earliest possible date, ideally mid-June. IDPH intends to file a concurrent Notice of Intended Action, providing a formal opportunity for stakeholder review and input following which amendments to the emergency rules can be made if necessary.
    b. Phase 2 rules – adopt new regulations for manufacturing and dispensing of medical cannabidiol in the state of Iowa. This will be the primary rule package needed to fully implement HF 524. The medical cannabidiol board will work with IDPH in the development of these rules. These rules will come to the Board of Health for adoption at a later date.
2. Appointment of medical cannabidiol board members. IDPH will utilize the Governor's existing boards and commissions website to accept applications for the board. The Governor will make the board appointments.
3. Issuance of a RFP for licensure of manufacturers. The legislation requires IDPH to issue a RFP, select and license up to two manufacturers by December 1, 2017.
4. Issuance of a RFP for licensure of up to two out of state dispensaries. The legislation requires IDPH to issue a RFP to select and license up to two out of state dispensaries by December 1, 2017.
5. Issuance of RFP for licensure of dispensaries. The legislation requires IDPH to issue a RFP to select and license up to five dispensaries by April 1, 2018.

Role of the State Board of Health

The State Board of Health is the entity responsible for adopting the administrative rules that will be required to implement HF 524. This includes Phase 1 and Phase 2 rules as described in this memorandum.

Budget

IDPH did not receive an appropriation for program startup costs. Startup costs relate to staff investment for rule writing, RFP writing and evaluation, and costs at the Departments of Public Safety and Transportation for their work associated with card issuance, background checks for manufacturing and dispensing applicants, and related work. The legislation does allow for collection of fees. Licensing application and registration card fees are defined by statute. Annual fees for manufacturers and dispensaries in an amount sufficient to eventually cover the administrative costs of the program are also authorized by the legislation. IDPH will be required to divert funding from other programmatic areas to provide startup resources. Final decisions about where those funds will come from are still being made.