

STATE OF NEVADA

BRIAN SANDOVAL
Governor

RICHARD WHITLEY, MS
Director



CODY L. PHINNEY, MPH
Administrator

TRACEY D. GREEN, MD
Chief Medical Officer

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH**

4150 Technology Way, Suite 300
Carson City, Nevada 89706
Telephone: (775) 684-4200 · Fax: (775) 684-4211

January 26, 2016

Riana Durrett, Esq.
Executive Director
Nevada Dispensary Association
3365 Pepper Lane, Suite 102
Las Vegas, NV 89120

Dear Ms. Durrett:

Thank you for your letter dated January 6, 2016, outlining your concerns about the Nevada medical marijuana patient application process. We understand that the process is somewhat cumbersome, and we continue to streamline it wherever we have the authority and the resources to do so. Your letter references the NRS term "as soon as practicable" numerous times when discussing the timeframe required to receive a medical marijuana patient card after submitting an application. The letter states that the Division of Public and Behavioral Health (Division) is not honoring that mandate. I respectfully disagree with that assessment as the Division has shown that staff typically approve or deny an application within 20 days of receipt (which is less than the mandated 30 days) and the DMV typically issues a card within 10 days. Given the resources available to the Division, the issuance of patient cards is occurring as soon as practicable. With additional resources, the Division may be able to expedite the issuance of patient cards further, which is a goal shared by the Division and industry.

The Division offers the following comments for the areas of concern identified in your letter:

- **DMV Interface** – Although progress has not been as expeditious as we would like, the project continues to move forward and we expect to have the interface completed soon. We anticipate it will launch in conjunction with the new patient database in the next 30-60 days. This interface will eliminate the requirement for patients to present their "Approval Letters" to the DMV, and will reduce the total wait time between submissions of the application to receipt of the registry identification card. Patients will still receive cards in the mail, but will not have to visit the DMV.
- **DMV Software** - The DMV currently outsources all its card printing to a company called Morpho Trust. Morpho Trust not only prints all Nevada drivers' licenses, but also prints all Nevada medical marijuana registry identification cards. The Division is willing to print patient registry cards in-house, but currently lacks the budget authority, equipment and staff that would be required.

- **Letter of Approval** – Industry requested that the letter of approval be honored in lieu of a medical marijuana patient card when a patient purchases medical marijuana (MM) from a dispensary. The Division agreed to allow dispensaries to honor a letter of approval for 14 days after the issue date to allow the purchase of MM while the patient waits for the card to be received from the DMV. As the letter of approval is not intended to replace the patient card, the Division stands by the 14 day limit as a reasonable approach.

- **Background Checks** – Nevada Revised Statutes (NRS) 453A.210 (5) states in part:

*...The Division **may deny an application** only on the following grounds:*

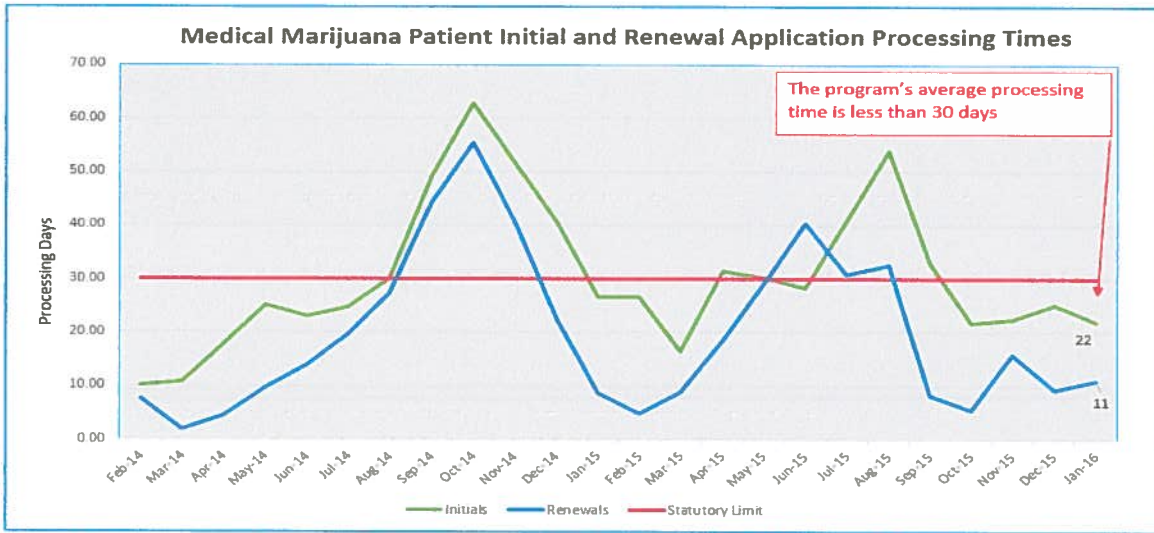
- e) The Division determines that the applicant, or the applicant's designated primary caregiver, if applicable, has been convicted of knowingly or intentionally selling a controlled substance;*

It has been argued that the Division should approve an application prior to receiving the background check results since the Division would have the ability to revoke the patient card at that time. I disagree with that argument as NRS 453A.210 (5)(e) references denial of an application, not the revocation of a patient card. Based on the verbiage used, the legislative intent was that the applicant shall pass a background check before the application can be approved.

- **Collection of \$100 at one time instead of collecting \$25 and \$75 separately** - NRS 453A.740 states the following:
 - 2. Fees for:
 - (a) Providing to an applicant an application for a registry identification card, which fee must not exceed \$25; and
 - (b) Processing and issuing a registry identification card, which fee must not exceed \$75.

The Division's fiscal staff and the Attorney General's Office has guided us the two step process is required by NRS.

- **On Line Applications** – The Division continues to work on building a new database which includes the launching of a new on line application for patients and caregivers. We anticipate going live with this new system in early spring 2016.
- **Patient Accounts of Timelines to Obtain Card** – It is true that in early 2015 to August 2015, the program was understaffed and at the same time saw an explosion of new patient applications. The program brought on temporary contractors to assist with clearing the backlog and bringing the application processing time back into compliance with the law. Regrettably, some patients in the past experienced delays in getting their cards in a timely fashion, but the chart below demonstrates the Division is currently processing applications in compliance with the statutory 30 day limit.



- References to the Arizona Model** – Although the Nevada medical marijuana law may be similar in certain ways to Arizona’s, the budgeting of the program is not. We met with the Arizona Department of Health and Human Services (DHHS) in the past. Their department keeps most of the revenue generated from their patient and establishment programs, and this allows their department to invest in impressive improvements in their systems, bring on numerous programmers as needed, and spare revenue also benefits other Arizona DHHS programs. The Nevada medical marijuana program must give all excess revenue to the Distributive School Account (DSA), and is under ever increasing scrutiny for typical and reasonable expenditures.

We appreciate the opportunity to partner with you and the industry to better serve the patients of Nevada. Thanks again for your concerns and recommendations.

Sincerely,

Joe Pollock, REHS
 Deputy Administrator of Regulatory and Planning Services
 Division of Public and Behavioral Health

cc: Cody Phinney, Administrator, DPBH
 Chad W. Westom, PAIS Bureau Chief
 Steve Gilbert, Program Manager