



ARIZONA DEPARTMENT OF HEALTH SERVICES

June 19, 2019

Ms. Lindsey Perry, Auditor General
Arizona Office of the Auditor General
2910 North 44th Street, Suite 410
Phoenix, Arizona 85018

Re: Medical Marijuana Program Performance Audit

Dear Ms. Perry:

The Arizona Department of Health Services ("Department") would like to thank you for the opportunity to respond to the recommendations and findings on the performance audit dated April 30, 2019. While the Department does not agree with every finding, we are committed to implementing those recommendations that will improve our department.

The Department has noted its agreement or lack thereof to each of the findings individually, in the prescribed attached format. The Department has a strong desire to constantly find a better way of performing our responsibilities through improved processes. We appreciate your work in helping us to improve and for the Auditor General's Office and its staff for its professionalism, consideration, and thoroughness during this process.

Sincerely,

Cara M. Christ, MD
Director

Douglas A. Ducey | Governor Cara M. Christ, MD, MS | Director

Finding 1: Department should take more timely action to revoke registry identification cards

Recommendation 1: The Department should develop and implement policies and procedures for revoking medical marijuana registry identification cards, including developing internal steps and associated time frames for revocation process steps that are within its control.

Department Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Department will develop policies and procedures to address the findings consistent with Arizona Management System, highlighting a streamlined process and customer service. ADHS is pleased that the Auditor General recognizes many of these processes and timeframes are outside the Department's control, however, ADHS also recognizes that internal processes can always be improved to deliver a more consistent result.

Recommendation 2: The Department should track and oversee performance for the time frames to ensure revocations occur as quickly and consistently as possible.

Department Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Department currently monitors various metrics to ensure performance across the program, specifically timeframes for the issuance of patient cards and licenses. ADHS agrees that in order to ensure timely revocations, a robust tracking system can be implemented to ensure timely revocations.

Finding 2: Some medical marijuana facility inspections not completed timely or consistently

Recommendation 3: The Department should develop and implement policies and procedures for its inspection processes to ensure Department staff apply, assess, and enforce statutory and rule requirements consistently during inspections. The policies and procedures should address: 1) how often inspections should be conducted; 2) how the Department will schedule and track inspections; 3) how to conduct the inspections, including how violations will be assessed; and 4) how to accurately maintain a record of its inspection process and results.

Department Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Department agrees with the Auditor General findings and will work to achieve the overall goal of improved tracking and improved survey consistency and training.

Recommendation 4: The Department should develop and implement a structured training program that comprehensively addresses the Program's inspection policies and procedures.

Department Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: A training program for surveyors for new and existing surveyors will be implemented to improve consistency.

Recommendation 5: The Department should continue holding and documenting consistency meetings between inspectors and Program management and, as appropriate, consult with its legal counsel regarding decisions reached at consistency meetings.

Department Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented

Response explanation: The Department is pleased with the Auditor General's findings and recommendation to continue an existing practice.

Finding 3: Department has inadequately investigated and monitored some complaints.

Recommendation 6: The Department should update and implement policies and procedures for its complaint-handling process, including:

- Determining and documenting whether complaints are in its jurisdiction.
- Determining when a secondary review of complaints is necessary to ensure complaints are appropriately assigned for investigation, such as mandating a secondary review for all complaints determined to be outside the Department's jurisdiction.
- Documenting all complaint investigation activities and any decisions reached from investigations.
- Establishing time frames for completing key steps of the complaint-handling process.
- Ensuring each complaint received by the Department is accurately recorded, tracked, and monitored in a complaint log or in another centralized location.
- Reviewing complaint outcomes and trends, and taking any necessary actions based on the trends identified.

Department Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: None.

Recommendation 7: The Department should develop and implement training for all staff involved in the complaint-handling process once it has developed the policies and procedures outlined in Recommendation 6, including training for new staff and periodic refresher training for all staff.

Department Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Department will implement a training program for new and existing employees improve the consistency and tracking of the complaint process.

Finding 4: Department has not consistently addressed medical marijuana facility noncompliance

Recommendation 8: The Department should develop and/or update and implement policies and procedures for addressing statutory and rule violations by medical marijuana facilities. These policies and procedures should include guidance for addressing medical marijuana facility noncompliance, such as when to seek a provider meeting and how to conduct provider meetings; the use of unannounced inspections; when to seek monetary penalties; when it should pursue revocation of a dispensary registration certificate; and where to document these decisions. Once these policies are developed and/or updated, all appropriate Program staff should be trained on these policies and procedures.

Department Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Department remains committed to working with our assistant attorney generals and our stakeholders to continuously evaluate how the Department can best address rule and statute violations by dispensaries. The Department will continue to maintain, update, and use our enforcement schedule to ensure consistency.

Finding 5: Although licensed as food establishments, Department does not inspect for food safety requirements at medical marijuana infusion kitchens

Recommendation 9: The Department should conduct unannounced food safety inspections of infusion kitchens on an ongoing basis, similar to its practices for other licensed food establishments in the State.

Department Response: The finding of the Auditor General is not agreed to and will not be implemented.

Response explanation: While the Department can appreciate the reasoning and recommendation of the Auditor General, the Department and legal counsel do not believe the statutory authority exists to conduct unannounced visits on food establishments located within a medical marijuana dispensaries.

Finding 6: Department should establish and implement process for setting Program fees

Recommendation 10: To help ensure medical marijuana fees reflect associated program costs, consistent with fee-setting models outlined in best practices, the Department should:

Recommendation 10a: Develop and implement a method, including associated policies and procedures, for determining the direct and indirect costs for providing the Program.

Department Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented

Response explanation: While the Department agrees with the finding and will implement internal processes to assess program costs and fees, it is worth noting that recent legislation has made significant changes to the program including doubling all card expiration timeframes, mandating a new medical marijuana testing certification and testing program and significant changes to the IT systems that are required to operate the program. The Department will take into account how the new legislation impacts the fees and program costs.

Recommendation 10b: After developing a cost methodology, determine whether the fees for medical marijuana registry identification cards and medical marijuana facilities should be modified to appropriately align with Program costs.

Department Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: None.

Recommendation 10c: If fee changes are appropriate, proceed with rulemaking to modify its fees, including seeking an exemption from the rulemaking moratorium as necessary and seeking input from stakeholders.

Department Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: None.

Recommendation 10d: Develop and implement a process to periodically reevaluate the fees associated with the Program.

Department Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Department believes that a good faith effort was used in determining fees related to expected, and unknown Program expenditures at the onset of the Program. However, the Department recognizes that more formal processes should be in place

Finding 7: Department misallocated some Medical Marijuana Fund monies

Recommendation 11: The Department should establish and implement written policies and procedures regarding the use of Fund monies that include the following: 1) the Program expenditures that are allowable under the Act; 2) how to allocate expenditures when more than 1 Department program benefits from the expenditure; 3) the processes and documentation necessary to charge payroll costs to the Fund to ensure it is only charged for

the work employees perform on the Program; 4) the type of supporting documentation that should be prepared and retained for all Fund expenditures; and 5) a description of monitoring activities, including any supervisory responsibilities, that will help ensure that Fund monies are being spent in accordance with the Act.

Department Response: The finding of the Auditor General is not agreed to but the recommendations will be implemented.

Response explanation: The Department believes that monies for the Fund were spent in an allowable manner, and that payroll costs for the Fund were only charged for work employees performed on the Program. However, the Department recognizes that more formal processes should be in place.

Recommendation 12: The Department should continue using its required approval plan to help ensure that Fund monies are appropriately approved and accounted for.

Department Response: The finding of the Auditor General is agreed to and will be implemented.

Response explanation: The Department believes that monies for the Fund were approved of and accounted for in an accurate manner. However, the Department recognizes that more formal processes should be in place.