

Audit Highlights



Highlights of performance audit report on the Medical Marijuana Program issued on April 14, 2017. Legislative Auditor report # LA18-07.

Background

The Nevada Medical Marijuana Program (Program) administers the provisions of the Medical Use of Marijuana Law adopted in 2001. As of January 2017, Nevada is 1 of 29 states, including the District of Columbia, with a comprehensive medical marijuana program. The Program has two primary functions:

The registry function issues identification cards to Nevada residents and their caregivers. Residents must be recommended by a physician for the use of marijuana for a qualifying medical condition. As of December 31, 2016, the Program reported:

- 25,358 Active cardholders
- 1,759 Active caregivers

The establishment function licenses and regulates medical marijuana dispensaries, cultivators, producers of edibles and infused products, and independent testing laboratories. As of February 9, 2017, the Program reported 381 establishments, with 198 pending final licensure. The remaining 183 establishments are actively licensed, and include:

- 74 Cultivation facilities
- 56 Dispensaries
- 42 Production facilities
- 11 Laboratories

The Program is self-funded and contributed \$1.25 million to the Distributive School Account in fiscal year 2016 from excess revenues.

Purpose of Audit

The purpose of this audit was to: 1) determine compliance with statutory and regulatory requirements related to the registry function, and 2) evaluate the adequacy of internal controls over the registry, recordkeeping practices, and billing process for establishments. The scope of our audit included Program activities during calendar years 2015 and 2016.

Audit Recommendations

This audit report contains six recommendations to enhance compliance with statutory and regulatory requirements and three recommendations to improve controls over Program operations.

The Division accepted the nine recommendations.

Recommendation Status

The Program's 60-day plan for corrective action is due on July 11, 2017. In addition, the six-month report on the status of audit recommendations is due on January 11, 2018.

Medical Marijuana Program

Division of Public and Behavioral Health

Summary

The Medical Marijuana Program (Program) needs to make enhancements to ensure requirements for eligible participation in the Program are met. We found some cardholders did not qualify to grow marijuana but were approved by the Program. The Program also needs to scrutinize the authenticity of physician recommendation forms to ensure applicants have qualifying medical needs. Additionally, the Legislature should consider eliminating the requirement for conducting background checks on medical marijuana cardholders. Individuals with disqualifying criminal histories will be able to purchase recreational marijuana and the costs of the existing process outweigh the benefits. The program could have saved about \$400,000 in 2016 if background checks were not required.

Key Findings

The Program approves registry applicants' requests to grow marijuana without determining whether they are eligible. As a result, 67% of cardholders we tested, in three counties with operating dispensaries, did not qualify to grow as they lived within 25 miles of a dispensary. Additionally, the Program did not adequately monitor the authorized grower information recorded in its database. Records for 39% of the 2,843 authorized growers did not cite the statutory reason they qualified as a grower. (page 9)

The Program needs to scrutinize the authenticity of physician recommendation forms to ensure applicants have qualifying medical needs. We found physician recommendation forms were not verified and some recommendations were made by medical professionals not meeting the definition of attending physicians in statute. Further, the Program has not coordinated with the Nevada State Boards of Medical Examiners and Osteopathic Medicine to establish a monitoring process as required by statute and regulation. (page 13)

The cost of enforcing the requirement to revoke a registry identification card based on the cardholder's criminal history exceeds the benefit. A background check is required for all initial applications; however, we estimate the number of registry cardholders with a disqualifying criminal history to be minimal. If the background check was not required, the Program could have saved about \$400,000 in calendar year 2016. In addition, background checks will not be required to purchase marijuana for recreational use. (page 17)

The Medical Marijuana Program can strengthen controls over its registry function, recordkeeping practices, and billing process. Controls in the registry are ineffective in preventing marijuana sales to cardholders with expired registry identification cards. Records management policies and procedures are lacking, which resulted in poorly organized and misplaced records. Additionally, the Program did not invoice for all billable activities or collect delinquent accounts from medical marijuana establishments. (page 21)

Legalization of Recreational Marijuana Impact

As of January 2017, Nevada became one of nine states to legalize the recreational use of marijuana. Similar to other states' experience, we anticipate the Medical Marijuana Program to continue to be a relevant path for individuals to obtain marijuana. For example, Colorado legalized recreational marijuana in 2012 and sales to the public began in 2014. Since that time, the number of participants in Colorado's medical marijuana program has remained reasonably stable. Additionally, taxes assessed on medical marijuana in Nevada are significantly less than the taxes proposed on recreational marijuana sales. In relation to our report, the Program may be impacted by the legalization of recreational marijuana as follows:

Marijuana Growers – Approval of cardholders authorized to grow marijuana remains relevant because, like the medical program, the recreational program prohibits individuals from growing if their residence is within 25 miles of an operating dispensary. (page 11)

Qualifying Medical Conditions – Verifying the authenticity of physician recommendation forms will continue to be important to ensure medical program applicants have qualifying medical conditions. Further, because recreational use will be illegal for persons under 21 years of age, ensuring those under 21 have qualifying medical conditions for participation in the medical program is crucial. (page 15)

Background Checks – The requirement to verify cardholders' criminal history in the medical marijuana program is no longer pertinent, because purchasing recreational marijuana will not require such verification. (page 18)