

MINUTES OF SPECIAL MEETING

PUBLIC BODY: MEDICAL MARIJUANA AUTHORITY FOOD SAFETY STANDARDS BOARD

DATE & TIME: AUGUST 19, 2019 11:45AM

ADDRESS: OKLAHOMA STATE DEPARTMENT OF HEALTH—Central Office, Room 806

CONTACT PERSON: BUFFY HEATER

TELEPHONE: (405) 271-4200

Agenda Item 1:

Call to Order, Welcome

Board Chair, Fenton Rood, called the special meeting of the Medical Marijuana Authority Food Safety Standards Board to order on Monday, August 19, 2019 at 11:55 a.m. Public notice of the meeting was filed and posted with the Oklahoma Secretary of State and on the Oklahoma Medical Marijuana Authority (“OMMA”) website prior to the special meeting. The final agenda was posted on the Oklahoma State Department of Health (“OSDH”) building entrance and the OMMA website. Relevant materials for the Board and other materials for the meeting are posted on the OMMA website.

Board members present: Becky Johnson, Scott Yates, Scott Schaeffer, Fenton Rood, Ray Jennings, Travis Splawn, and Dr. Edd Rhoades.

Board member(s) absent: Mark Woodward, Bud Scott, Kara Berst, and Troy Skow.

Staff Present: Buffy Heater, Chief Data, Public Policy & Promotion Officer; Adrienne Rollins, OMMA Director; Samuel McClendon, OMMA Commercial Licensing Manager; Kim Heaton, Deputy General Counsel; Tony Sellers, OSDH Communications Director, Cameron Capps, OMMA Managing Counsel; Scott Chisholm, OMMA Assistant Director; Ashley Scott, OSDH Legislative Liaison; Cortni Ogles, OMMA Administrative Assistant; Tiffany Love, OMMA Administrative Assistant.

Others Present: Tyler Talley, Allison Manis, Jennifer Boyle, David Oakley, Brett Robinson, and Wendy Hampton.

Agenda Item 2:

Consideration of meeting minutes from August 12, 2019 <http://omma.ok.gov/food-safety-standards-board>

a. Review & Board Action

Ray Jennings made a motion to approve the August 12, 2019 minutes. Travis Splawn seconded the motion. Motion carried.

Aye: All members present voted to approve the meeting minutes. No member present opposed.

Absent: Mark Woodward, Bud Scott, Kara Berst, and Troy Skow

Agenda Item 3:

OSDH presentation of staff points of contact for the FSSB and rule promulgation activities

a. Discussion & Questions

Buffy Heater's report included the OMMA and Health Department staff points of contact; and an explanation of the rule promulgation activities.

Ms. Heater explained that as Mr. Rood is Chair, and Mr. Splawn is Vice-Chair, it would be appropriate for Board members to direct their communications regarding the Board through the officers. Ms. Heater has and will continue to reach out to the officers to coordinate FSSB meeting agenda items. Ms. Heater will continue to staff FSSB meetings and coordinate public postings in congruence with the Open Meetings Act.

Ms. Heater explained that Nicole Nash, the OMMA staff attorney, will be absent for a period of time. During her absence Kim Heaton and Cameron Capps, both OSDH attorneys, will be assisting the FSSB meetings. Adrienne Rollins is the Director of the OMMA program and oversees operations of the program. Ms. Rollins will be in attendance at FSSB meetings and available to answer questions.

Becky Johnson stated that she was thankful to Ms. Heater for sending the Board the materials that were posted to the website. Ms. Heater said that practice can be continued if it is helpful to the Board.

Ms. Heater explained the rule promulgation activities. As has been previously reported to the FSSB, OSDH staff have worked, and continue to work, on drafting emergency rules to come into compliance with the statutory changes that passed in the 2019 Legislative session.

Ms. Heater stated on June 24th, the FSSB heard a presentation from staff detailing item-by-item what bills have been introduced in the 2019 session and bills that have been signed and their effective dates. The Board was reminded these materials are available on the OMMA website.

Ms. Heater reported there are a variety of implementation activities underway. Activities include rule making, as well as developing and implementing changes for operations and procedures. Many of these activities are occurring in parallel, given the relatively short timeframe until their effective dates. Resulting from the 2019 legislative changes, the emergency rules are being drafted in two flights – two separate submissions of emergency rules - one in August and one in November of

2019. The primary reason for this approach are the effective dates of the statutory changes.

Ms. Heater reminded the Board their request at the last meeting was a clarification on the major categories of emergency rule making to be included in each flight. She explained that statutory changes taking effect under an emergency clause had already been included in emergency rule. These categories include removal of the board certification requirement; timeframes to process patient licenses; and certain items considered medical marijuana waste. Statutory changes taking effect 90 days after sine die, on August 30th, were a result of House Bill 2612 (otherwise known as the Unity Bill) and other House and Senate bills. These categories of emergency rule changes include business licensing application requirement changes impacting renewals and initial applications; compliance changes; packaging and labeling; testing of all medical marijuana and medical marijuana products; new business license categories for commercial transporters and transporter agents; new patient licenses categories for short-term licenses; physician ability to revoke a patient recommendation; fee structure changes; and podiatrist ability to provide patient recommendations. Statutory changes taking effect November 1st and included in the second flight of emergency rules, include OMMA laboratory licensing requirements; testing protocols and procedures; establishment of the oversight laboratory to perform the oversight of OMMA licensed laboratories; seed-to-sale inventory tracking system interoperability requirements; foreclosure and receivership; and business license categories for research, educational and waste facilities.

Ms. Heater reminded the Board that emergency rules enacted in 2019 will have to go through the permanent rule making process that coincides with the 2020 Legislative session. As part of the permanent rule promulgation process, there is a mandatory public comment period. Additionally, the state is required to provide a rule impact statement and a synopsis of public comments were received. Those materials involved in the permanent rule making process will be available to the Board and the public as that process occurs in the spring of 2020.

A Board member asked whether there were emergency rule developments planned for December. Ms. Heater said there was not a December flight of emergency rules being considered at this time.

A Board member asked if there had been discussion on the timeframes necessary for laboratories to receive certification and licensure. Ms. Heater said the program recognizes the laboratory industry will need to first review and understand the OMMA licensing requirements set forth in future emergency rule making, then may need to take action to ensure those requirements have been met. Until the emergency rule regarding OMMA licensing of laboratories is drafted, these requirements are unknown. In previous FSSB meetings the state efforts to procure a

laboratory consultant and to hire laboratory staff with appropriate expertise were discussed as necessary resources OMMA needed to help determine what the laboratory licensing requirements would be.

A Board member asked when it is expected to have the laboratory consultant and laboratory staff secured. Ms. Heater explained the request for proposals had been posted and to date responses had been received that met minimum qualification requirements for specific cannabis-related experience. A re-issuance of the request is being explored. In terms of acquiring staff for the laboratory scientist position, it is hoped to have job offers made by the end of August.

Becky Johnson asked what the oversight lab will be doing. Ms. Heater reminded her that House Bill 2612 required the oversight laboratory to be a private entity secured through a procurement process. The oversight laboratory is responsible for validating and double-checking the OMMA licensed laboratories to make sure they are providing accurate results. The oversight laboratory may not provide cannabis testing for OMMA licensed businesses, they must operate in an independent, third-party status. Ms. Johnson asked how the testing would be done; would staff go out and get samples or would they be delivered here, to the state. Ms. Heater said those details have not yet been determined but are anticipated to be developed under the guidance of the laboratory scientists and consultant.

Travis Splawn stated that the FSSB laboratory committee is working on a draft of recommendations for testing. The committee had thought they would have those recommendations submitted before today's meeting. Ms. Heater said they welcome any recommendations the Board has; it is the reason for the Board. She said that those recommendations could be reviewed before the November flight of the emergency rules are finalized, and the FSSB had established special meetings in September and October at which the recommendations could be discussed.

The Board discussed ways the transportation license could be implemented. The Board recommended additional guidance should be made available to OMMA licensed businesses on the website after emergency rules have been enacted. Adrienne Rollins explained that OMMA licensed businesses would be sent an email explaining the changes.

The Board discussed the requirement for opaque packaging and recommended clarifications to OMMA licensed businesses should be provided. The Board discussed bringing packaging examples to the next meeting.

Bud Scott joined the meeting at 12:30pm.

Agenda Item 4

Discussion of possible rule recommendations to current rule language which incorporated the August 24, 2018 food safety standards board recommendations into OSDH regulation

a. Discussion & Questions

The Board discussed the recommended amendments to the working draft of emergency rule. Buffy Heater followed the Board's discussion, repeated and read aloud the Board's recommended wording changes, and documented the revisions the Board recommended. Ms. Heater explained the Board's recommended changes would be incorporated into a revised copy of the draft rule. Kim Heaton suggested that the changes should be read aloud for the record.

b. Consideration, possible action, and vote regarding rule recommendations

Scott Schaeffer made a motion to approve the changes as recommended by the Board and to submit the recommendations to the Commissioner of Health. Travis Splawn seconded the motion. Motion carried.

Aye: All members present at the meeting voted to approve the motion. No member present opposed.

Absent: Mark Woodward, Kara Berst, and Troy Skow.

Agenda Item 5:

New Business

No new business

Agenda Item 6:

Closing, Adjournment & Dismissal

Scott Yates made a motion to adjourn. Ray Jennings seconded the motion. Motion carried.

Aye: All members present voted to adjourn. No members present opposed.

Absent: Mark Woodward, Kara Berst, and Troy Skow.

The meeting adjourned at 6:00 p.m.

Authorized Representative of the Board