LA18-07

STATE OF NEVADA

Performance Audit

Department of Health and Human Services
Division of Public and Behavioral Health

Medical Marijuana Program

2017

Legislative Auditor
Carson City, Nevada

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.

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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)

Audit Division
Legislative Counsel Bureau

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU
LEGISLATIVE BUILDING
401 S. CARSON STREET
CARSON CITY, NEVADA 89701-4747

LEGISLATIVE COMMISSION (775) 684-6800
MICHAEL ROBERSON, *Senator, Chairman*
Rick Combs, *Director, Secretary*

INTERIM FINANCE COMMITTEE (775) 684-6821
JOYCE WOODHOUSE, *Senator, Chair*
Mark Krmpotic, *Fiscal Analyst*
Cindy Jones, *Fiscal Analyst*

RICK COMBS, *Director*
(775) 684-6800

BRENDA J. ERDOES, *Legislative Counsel* (775) 684-6830
ROCKY COOPER, *Legislative Auditor* (775) 684-6815
SUSAN E. SCHOLLEY, *Research Director* (775) 684-6825

Legislative Commission
Legislative Building
Carson City, Nevada

This report contains the findings, conclusions, and recommendations from our performance audit of the Medical Marijuana Program of the Division of Public and Behavioral Health, Department of Health and Human Services. This audit was conducted pursuant to the ongoing program of the Legislative Auditor as authorized by the Legislative Commission. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions.

This report includes nine recommendations to ensure compliance with statutory and regulatory requirements, and to improve controls over Program operations. We are available to discuss these recommendations or any other items in the report with any legislative committees, individual legislators, or other state officials.

Respectfully submitted,

Rocky Cooper, CPA
Legislative Auditor

March 29, 2017
Carson City, Nevada

Medical Marijuana Program
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Introduction

Background

The Medical Marijuana Program (Program) is administered by the Division of Public and Behavioral Health (Division) of the Department of Health and Human Services. The Program was created to administer the provisions of the Medical Use of Marijuana Law enacted by the Legislature in 2001, and is governed by Nevada Revised Statutes (NRS) and Nevada Administrative Code (NAC) Chapter 453A. 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. The establishment function licenses and regulates medical marijuana dispensaries, cultivators, producers of edibles and infused products, and independent testing laboratories.

Nevada voters approved the use of medical marijuana by ballot initiative in 2000 amending the Nevada Constitution[1]. In 2001, the Nevada Legislature enacted laws allowing qualifying individuals to use medical marijuana for certain chronic or debilitating conditions by applying for registry identification cards. In 2013, the Legislature directed the Division to register and license establishments to produce, test, and dispense medical marijuana and marijuana-infused products. Regulations covering medical marijuana establishments took effect on April 1, 2014. As of January 2017, Nevada is 1 of 29 states, including the District of Columbia, that have legalized a comprehensive medical marijuana program.

Implementation and Impact of Legalizing Recreational Marijuana

The passage of Proposition 2 in November 2016 legalized the recreational use of marijuana for adults 21 years and older. Effective January 1, 2017, possession of up to 1 ounce of marijuana and cultivation of up to six marijuana plants for personal use have

[1] Nevada Constitution, Article 4, § 38

been decriminalized. During the 2017 Legislative Session, statutory and regulatory mechanisms will be implemented for the sale of marijuana for recreational use.

Based on information from other states with medical marijuana programs when recreational marijuana was legalized, it is anticipated that Nevada's medical marijuana program will remain a relevant path for Nevadans 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 the audit, where applicable, we have identified the potential impact of recreational marijuana on the Medical Marijuana Program and our audit findings.

Medical Marijuana Cardholder Registry Function

The registry function issues identification cards to Nevada residents, regardless of age, meeting the following qualifications:

- Be in the care of an attending physician who is licensed in Nevada, and be informed of the benefits and risk of medical marijuana.
- Be diagnosed with an approved chronic or debilitating condition and have received written documentation that medical marijuana could mitigate the symptoms. Approved conditions are noted in Appendix B on page 27.

To recommend the use of medical marijuana in Nevada, attending physicians must meet the following requirements:

- Be a Doctor of Medicine or Doctor of Osteopathy, licensed to practice in Nevada and be responsible for the care and treatment of the applicant.
- Provide a personal assessment of the applicant's medical history and condition. Inform the applicant about the risks and benefits of medical marijuana.

- Sign a written document stating that the applicant has a chronic or debilitating medical condition and that medical marijuana could mitigate the symptoms.

For persons under 18 years of age to qualify, a parent or legal guardian must consent and serve as the person's caregiver. Nevada also allows applicants 18 and older to designate a caregiver. The caregiver can only be designated for one person and must be issued a registry identification card. Registry applicants may also elect to grow marijuana, if they meet statutory requirements and are approved to do so by the Program.

After approval, the registry identification card is produced by the Department of Motor Vehicles and is sent directly to the applicant. Cardholders must renew annually and submit an updated physician recommendation form and applicable fees. Application information is recorded in the registry database, which contains all cardholder records. The registry is the Program's primary information system.

As of December 2016, the Program reported 25,358 active cardholders and 1,759 active caregivers. During this month, the Program processed 1,635 initial and renewal applications. The number of cardholders by qualifying medical condition in calendar year 2016 is detailed in Appendix B on page 27. Additionally, the number of cardholders by county is detailed in Appendix C on page 28.

NRS 453A.210(5) requires the Program to approve applications within 30 days after receipt. Based on approved applications from January to August of 2016, approval time frames have decreased significantly during 2016 from about 13 days to an average of same-day processing. During this same time frame the number of active cardholders increased by 53%. Processing times improved, in part, due to a February 2016 legal opinion from the Legislative Counsel Bureau advising the Program that registry applications could be approved while background check results were pending.

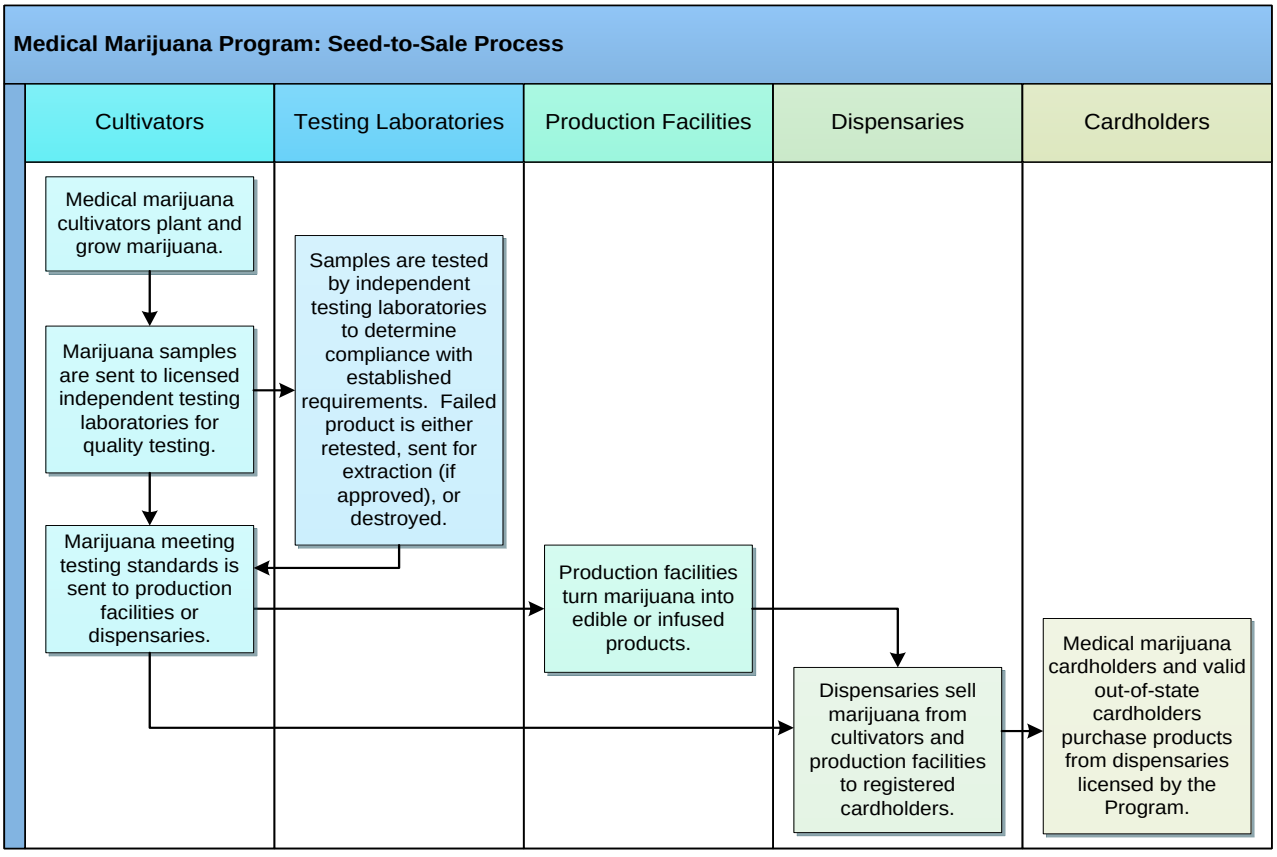
Dispensaries use a web-based portal to confirm cardholder information and to register each sale. The portal limits sales for cardholders to 2.5 ounces of marijuana in any one 14-day period in

accordance with statute, or 2.5 ounce equivalents for edible marijuana products and marijuana-infused products. Sales are also registered for nonresidents, and the same limitations for the amount and frequency apply. NRS 453A.364 allows dispensaries to recognize nonresident cards issued by a Program-approved state or jurisdiction. Medical marijuana sales to nonresidents amounted to 39% of total dispensary sales from July 2015 to June 2016 according to Program records.

Medical Marijuana Establishment Function

The establishment function is responsible for licensing and regulating medical marijuana dispensaries, cultivators, producers of edibles and infused products, and independent testing laboratories. Exhibit 1 shows the process medical marijuana follows from seed to sale.

Seed-to-Sale Process **Exhibit 1**



Source: Auditor prepared from Program documentation, interviews, and auditor observations.

The first medical marijuana establishment licensed by the State of Nevada began operating in March 2015. Provisional certificates were issued in November 2014 to successful establishment applicants, in coordination with local jurisdictions, and within lawful limitations set by each county. Provisional certificates for establishments are converted to final certificates once an establishment is prepared to begin operations, and the Program finds them compliant with state laws and regulations. Program auditors and inspectors oversee establishment operations by enforcing compliance, investigating complaints, and assisting in the processing of required annual renewals of establishment registration certificates.

As of October 2016, 6 of Nevada's 17 counties have approved medical marijuana facilities within their jurisdiction. Exhibit 2 shows the number of provisional and final licenses as of February 2017, and Appendix C on page 28 lists these licenses as well as active cardholders by county.

Provisional and Final Licenses **Exhibit 2**
Cultivation, Dispensary, Production, and Laboratory Facilities

	Northern Nevada		Southern Nevada		Statewide		
Facility Type	**Provisional Licenses**	**Final Licenses**	**Provisional Licenses**	**Final Licenses**	**Provisional Licenses**	**Final Licenses**	**Total**
Cultivation	28	15	79	59	107	74	**181**
Dispensary	6	11	4	45	10	56	**66**
Production	17	10	58	32	75	42	**117**
Laboratory	0	2	6	9	6	11	**17**
Total	**51**	**38**	**147**	**145**	**198**	**183**	**381**

Source: Program records as of February 9, 2017.

Budget

The Program is self-funded through fees assessed for approving and renewing cardholder applications and regulating medical marijuana establishments. Exhibit 3 details the fee structure in effect for the Program's registry and establishment functions.

Registry and Establishment Fees **Exhibit 3**

Registry	Application Request Fee	Application Processing Fee	Annual Renewal Fee
Cardholder	$25	$75	$75

Establishments	Initial Fee	Annual Renewal Fee	Billing Rate (Complaints & Inspections)
Dispensary	$30,000	$5,000	$40/hr
Laboratory	$ 5,000	$3,000	$40/hr
Cultivator	$ 3,000	$1,000	$40/hr
Producer	$ 3,000	$1,000	$40/hr

Source: NRS, NAC, and Program records.

Fees are set at the maximum rates allowed in statute (NRS 453A.800 and 453A.344). The billing rate for complaints and investigations is not established in statute or regulation; however, statute allows for the recovery of related costs. All establishments are also required to pay a one-time, nonrefundable $5,000 application fee. Establishment agents pay a $75 annual fee. Agents include owners, officers, board members, employees or volunteers of establishments and independent contractors and their employees, who provide labor for the cultivation, processing, and production of marijuana for establishments.

Prior to the 2015 Legislative Session, both the medical marijuana registry and establishment functions were organized under one budget account in the State's accounting system. However, the functions were split into separate budget accounts beginning in fiscal year 2016. Exhibit 4 shows the Program's funding sources for fiscal years 2014 through 2016.

Medical Marijuana Program Funding Sources **Exhibit 4**
Fiscal Years 2014 to 2016

				2016 by Function	
Funding Source	**2014**	**2015**	**2016**	**Registry**	**Establishment**
Beginning Cash	$ 653,827	$ 507,936	$1,564,893	$ 722,438	$ 842,455
Appropriations[1]	-	-	-	-	-
Registry Fees	996,395	1,012,355	1,852,980	1,852,980	-
Establishment Fees	-	2,746,296	2,702,048	-	2,702,048
Excise Tax[2]	-	-	190,463	-	190,463
Interest Income	4,236	8,565	11,560	6,181	5,379
Total Funding Available	**$1,654,458**	**$4,275,152**	**$6,321,944**	**$2,581,599**	**$3,740,345**
Less Total Expenditures	(1,146,522)	(2,710,259)	(3,065,789)	(1,199,154)	(1,866,635)
Reserve Balance	**$ 507,936**	**$1,564,893**	**$3,256,155**	**$1,382,445**	**$1,873,710**
Reverted to DSA[3]	-	-	(1,254,001)	-	(1,254,001)
Carryforward	**$ 507,936**	**$1,564,893**	**$2,002,154**	**$1,382,445**	**$ 619,709**

Source: State accounting system.

[1] A General Fund advance of $623,000 was issued and repaid in fiscal year 2014.

[2] Excise Tax revenues of $190,463 represent 25% of the taxes collected by the Department of Taxation in fiscal year 2016. The remaining $571,386 or 75% was transferred into the Distributed School Account (DSA) by Taxation.

[3] The Program reverted $1,254,001 to the DSA from excess establishment function revenues.

Excess revenues generated through the registry function are carried forward to the next fiscal year to fund operations. Excess revenues in the establishment function are reverted to the Distributive School Account in the State's General Fund. As noted previously in Exhibit 4, the first transfer to the Distributive School Account from the establishment function was in fiscal year 2016 for about $1.25 million. Exhibit 5 details the Program's expenditures by significant category from fiscal years 2014 through 2016.

Medical Marijuana Program Expenditures **Exhibit 5**
Fiscal Years 2014 to 2016

				2016 by Function	
Expenditure Category	**2014**	**2015**	**2016**	**Registry**	**Establishment**
Personnel	$ 200,811	$ 877,616	$ 998,560	$ 191,545	$ 807,015
Operating[1]	225,008	553,535	835,643	660,210	175,433
Contracted Services	230,543	783,286	722,672	-	722,672
Cost Allocations[2]	490,160	495,822	508,914	347,399	161,515
Total Expenditures	**$1,146,522**	**$2,710,259**	**$3,065,789**	**$1,199,154**	**$1,866,635**

Source: State accounting system.

[1] Operating category also includes travel, equipment, and information services.

[2] Cost Allocations category includes transfers to other state agencies for services, including the Division of Public and Behavioral Health.

Staffing

As of July 2016, the Program was comprised of 35 personnel, the majority (54%) of which are independent contractors. The contractors include information technology specialists who manage information systems; administrative assistants responsible for various operational duties; and program officers, compliance staff, and other staff responsible for public affairs and analytics. Exhibit 6 shows personnel by title and type.

Personnel by Title and Type **Exhibit 6**

Position Description	State Employees	Independent Contractors
Information Technology	-	2
Administrative Assistants	5	10
Program Officers	2	1
Compliance	6	5
Management	2	-
Other	1	1
Total	**16**	**19**

Source: State human resources system and Program records.

Scope and Objectives

The scope of our audit included a review of certain Program activities within the registry and establishment functions in calendar years 2015 and 2016. We also included information from 2017 in the report's introduction and appendices. Our audit objectives were to:

- Determine compliance with statutory and regulatory requirements related to the registry function.
- Evaluate the adequacy of internal controls over the registry, recordkeeping practices, and billing process for establishments.

This audit is part of the ongoing program of the Legislative Auditor as authorized by the Legislative Commission, and was made pursuant to the provisions of NRS 218G.010 to 218G.350. The Legislative Auditor conducts audits as part of the Legislature's oversight responsibility for public programs. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions.

Registry Function Enhancements Are Needed to Ensure Statutory and Regulatory Requirements Are Met

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. Correcting these deficiencies will ensure the Program is operating effectively, efficiently, and in accordance with legislative intent.

Grower Authorization Process Needs Strengthening

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 in the database did not cite the statutory reason they qualified as a grower.

Marijuana Growers Did Not Always Meet Statutory Requirements

The Program does not have an established process, including written policies and procedures, to ensure applicants' requests to grow marijuana are verified. We found 34 of 51 (67%) cardholders tested should not have been authorized to grow, because their residence was within 25 miles of a dispensary. Enhanced controls are needed to ensure persons authorized to grow marijuana meet statutory requirements.

NRS 453A.200(6) outlines the four qualifications for registry cardholders to grow marijuana. To qualify, an applicant must meet at least one of the following qualifications:

- Authorization to grow occurred before July 1, 2013.
- Necessary strains or quantities are not available.
- Illness or lack of transportation limits access to dispensary.
- Operating dispensaries are over 25 miles from residence.

Based on available Program records, we identified 51 first-time applicants authorized by the Program to grow under the qualification that no medical marijuana dispensary was operating within 25 miles of their residence. However, 34 cardholders should not have been approved because a dispensary was operating within 25 miles of their residence at the time of their application. These cardholders' applications were approved between April and September 2016. The 51 growers were selected for analysis because they resided within the 3 Nevada counties with operating dispensaries as of the date of the grower's initial application. Exhibit 7 details the authorized growers, under the 25-mile qualification, in these 3 counties.

Cardholders Not Meeting 25-Mile Qualification to Grow by County[1] **Exhibit 7**

County	Authorized Growers	Growers Within 25 Miles of a Dispensary	Percentage Not Qualified
Clark	21	13	62%
Nye	14	8	57%
Washoe	16	13	81%
Total	**51**	**34**	**67%**

Source: Auditor prepared from Program data on cardholders approved between April and September 2016.

(1) See Appendix D, on pages 29-30, for additional information on cardholders not meeting the 25-mile qualification.

Determining the proximity of applicants' residences to operating dispensaries is a feasible process that can be completed using geographic information software (GIS). Various commercial GIS packages are available, as well as free applications that could be utilized to quickly assess whether an applicant qualifies for having a residence more than 25 miles from an operating dispensary.

With the exception of those residing more than 25 miles from an operating dispensary, the remaining statutory qualifications may be more difficult to verify. For applicants claiming a strain is not available, the Program can improve its process by, at a minimum, requesting and recording the type of strain claimed unavailable by an applicant. The Program is implementing an electronic inventory system providing it access to all dispensaries' inventories, which may facilitate a method to verify availability of strains. Regarding the qualification due to travel limitations, the Program could request, track, and verify the travel limitation, as appropriate.

Verifying statutory qualifications for applicants' requests to grow marijuana would help ensure only those qualified under state law and regulation are growing marijuana at their residences. Additionally, this verification could increase taxes collected if purchases were instead made through a dispensary.

Legalization of Recreational Marijuana Impact

With the legalization of recreational marijuana, the approval and tracking of registry cardholders authorized to grow marijuana remains relevant and important. Similar to the Medical

Marijuana Program, the recreational program will allow persons 21 years and older to grow up to six plants, if a dispensary is not within 25 miles of their residence. Further, individuals 21 and older can possess marijuana, but purchases must be made through a dispensary. Limiting cardholders growing marijuana to those that qualify under the statutory requirements can improve dispensary sales, thereby increasing tax revenue dedicated to public education and regulatory oversight.

Qualification to Grow Not Recorded for Many Cardholders

We were unable to verify whether many cardholders qualified to grow marijuana because Program records were incomplete. We found 1,098 of 2,843 (39%) cardholders' records did not include 1 of the 4 statutory qualifications to grow marijuana. The 2,843 cardholder records were identified in the registry database as approved to grow medical marijuana. The lack of statutory qualifications can be attributed to the differences between versions of the Program's registry cardholder application, as well as the lack of controls within the registry.

The Program has used multiple versions of the cardholder application; at least one version did not include a field for the applicant to indicate the specific qualification for growing. As a result, some applications were approved by the Program without recording the qualification in the registry. To correct this, the Program needs to establish a process to ensure grower information is recorded completely and accurately. Additionally, controls should be developed in the registry to prevent an applicant requesting to grow marijuana from being approved if the statutory qualification is not recorded in the registry.

Finally, the Program's authorized grower information made available to law enforcement did not include the qualifying reason for growing, as required by regulation. NAC 453A.718 requires the Program to maintain a log of each person who is authorized to grow marijuana, and the log must indicate the reason the grower qualifies. A complete and accurate log can be beneficial for law enforcement personnel to enforce marijuana laws and regulations.

Physician Recommendation Forms Need Scrutiny

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 (state medical boards) to establish a monitoring process as required by statute and regulation.

Authenticity of Physician Recommendation Forms Is Not Verified

The Program does not verify the authenticity of physician recommendation forms to ensure forms attesting to the applicants' qualifying needs are signed by an authorized physician. NRS 453A.210 requires valid, written documentation from an attending physician recommending the use of medical marijuana to qualify as a registry cardholder. To comply, the Program requires applicants to submit a signed physician recommendation form to the Program with their application. Lack of review of applicant-submitted forms increases the risk of approving applicants who do not possess a recommendation legitimately signed by an authorized physician.

The Program compares licensure information on physician recommendation forms to a list of recommending physicians. However, general physician licensure data is publicly available on state medical board websites. As such, checking that the license information on physician recommendation forms matches an actively licensed physician does not verify that the forms were authentic, and actually signed by that physician.

The process of authenticating physician recommendation forms in other states we contacted suggests best practices could be employed to improve the Program's procedure. Of eight states with medical marijuana programs we surveyed, six require physicians to submit recommendation forms directly to their programs. This is in contrast with Nevada's process where applicants submit the physician recommendation form to the Program as a part of their application.

The recommendation by a physician, identifying an applicant's qualifying medical condition to participate in the Medical Marijuana Program, is a key control to maintain the integrity of the Program. Program participants need to continue consulting their attending physician regarding their qualifying medical condition and the risks and benefits associated with marijuana. By developing a process to authenticate physician recommendation forms, the Program can better ensure only cardholders with legitimate physician recommendation forms are being issued medical marijuana cards. Additionally, this will help ensure the information is reliable to monitor physicians recommending the use of medical marijuana.

Recommendation Forms Were Signed by Non-Physicians

The Program accepted physician recommendation forms for the use of medical marijuana from medical professionals not meeting the definition of attending physicians, and in some cases not licensed to practice medicine as a physician per state law. We identified 8 medical professionals not licensed as physicians under NRS 630 or 633 from a judgmentally selected sample of 39 physicians. The selection was based on unusual characteristics in the physicians' license numbers. Therefore, the results of our sample should not be projected to the entire population of 466 physicians in the database. Ensuring only recommendation forms signed by statutorily authorized medical professionals are accepted safeguards the integrity of the Program and protects participants.

The eight medical professionals that did not meet requirements were identified from a March 2016 list submitted by the Program to state medical boards.

- Four were licensed under NRS 630 or 633, but were not licensed to practice medicine as a physician. The listing included one physician assistant, two medical residents, and one osteopathic resident.

- Four were not licensed under NRS 630 or 633. The listing included one podiatrist, one chiropractor, and two nurse practitioners.

In each of these cases, the medical professionals recommended only one applicant, according to Program records. However, if the process to evaluate and verify physicians' recommendation forms is not enhanced, such occurrences could become more significant. A contributing factor to these issues is the reliance on a list that is not regularly updated or verified.

The registry database contains a list of physicians, which is a combination of data provided by state medical boards and records added by Program staff from applicant-submitted physician recommendation forms. If the physician on the recommendation form is not found on the list, Program staff manually add it. However, the manual entries are not verified to ensure the recommending individual is authorized to recommend the use of marijuana. Management indicated that the list is not updated regularly, although updates are available from the state medical boards. Regular updates are important because the information on the applicant-submitted physician recommendation forms is compared to the list by Program staff when processing applications.

Additionally, the Program does not have a documented procedure for staff to follow and ensure only authorized medical professionals are considered acceptable. To ensure the policy is consistent with the statute, the Program should, with input from legal counsel, document the medical professionals appropriate to recommend the use of medical marijuana. For example, physician assistants are licensed under NRS 630 or 633, but not licensed to practice as a physician.

Legalization of Recreational Marijuana Impact

Verifying the authenticity of physician recommendation forms to ensure program participants have qualifying medical needs is a significant safeguard in preventing individuals from purchasing marijuana for unauthorized reasons. The Medical Marijuana Program does not restrict participation by age, in contrast to the recreational program that allows participation for individuals 21 years of age and older. Individuals under 21 can legally purchase medical marijuana, as long as a physician recommendation is included in the application. Also, participation in the Medical Marijuana Program may be

advantageous, because the taxes on medical marijuana purchases are anticipated to be much lower than recreational marijuana.

Reporting to State Medical Boards Can Be Improved

Physician data collected by the Program and provided to the state medical boards was not always reliable. In our analysis of the 466 recommending physicians sent to the state medical boards as of March 2016, we found 51 (11%) physician records contained data entry errors, such as duplications and missing license numbers. In addition, 19% of approved applications from fiscal year 2016 in the registry database did not have physician identification numbers. Therefore, these electronic records were not linked to which physician recommended the applicant's use of medical marijuana, and were not included in reports sent to the state medical boards. Inaccurate and incomplete physician data prevents the Program and medical boards from effectively monitoring physicians recommending the use of medical marijuana.

NRS 453A.370(6)(c) and NAC 453A.716(2) require the Program to track physician recommendations made for medical marijuana in Nevada and to coordinate with the state medical boards by providing this information annually and analyzing it. The Program is also to cooperate with the boards to determine whether any physicians are recommending the use of medical marijuana at a rate that appears unreasonably high. Implementing a coordinated monitoring process between the Program and state medical boards can improve the oversight of physicians advising the use of medical marijuana.

The Program has also not developed a process to coordinate oversight of recommending physicians with the state medical boards as required by law and regulation. As of March 2016, 5% of recommending physicians accounted for 84% of the total physician recommendations for participation in the Medical Marijuana Program. It may be important for state medical boards to take these recommendation totals and concentrations into account when considering other oversight actions.

Cardholder Background Check Requirements Exceed Benefits

The cost of conducting background checks for the Medical Marijuana Program exceeds the benefits. A background check is performed for all initial applications; however, we estimate the number of registry cardholders with a disqualifying criminal history to be minimal. If the background checks were not conducted, 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. Furthermore, the Program's enforcement of the background check requirement is deficient as the Program does not prevent ineligible cardholders from purchasing medical marijuana.

Background Check Requirements No Longer Pertinent

The background check requirement to participate in the Medical Marijuana Program is no longer pertinent, because regardless of criminal history individuals will be able to purchase marijuana for recreational use. Additionally, we estimate that the percentage of cardholders with disqualifying criminal histories to be insignificant at less than 1%, based on about 4,600 background checks available for review. Further, our survey of five states with medical marijuana programs found background checks for applicants are not required to participate in their programs.

The cost of a name-based background check is $23.50 and is a component of the initial application fee. If legislative changes were made to eliminate the background check requirement, the Program could save in fees and resources used to process the background checks. These savings could be passed along to applicants in the form of reduced application fees if deemed appropriate by the Program.

Elimination of the background check requirement would necessitate a statutory change. NRS 453A.225(1)(b) requires the Program to immediately revoke registry identification cards if the cardholder has been convicted of knowingly or intentionally selling controlled substances. To comply with this requirement, the Program conducts name-based background checks on initial registry applicants through the Department of Public Safety's Records Bureau. However, as of February 2016, registry identification cards are issued while background checks are in

process. Under NAC 453A.100(2), the Program may conduct more extensive fingerprint-based checks when name-based checks are not sufficient to determine criminal history.

Legalization of Recreational Marijuana Impact

With the passage of the ballot initiative legalizing recreational marijuana, individuals 21 years and older will not be required to undergo background checks before purchasing marijuana for recreational use. As a result, the medical marijuana statutory provisions requiring the background check are no longer pertinent since persons with criminal histories will be able to purchase marijuana through retail marijuana stores.

Enforcement of Background Check Requirement Is Ineffective

We found the Program's enforcement of the requirement to prevent the sale of marijuana to those with disqualifying criminal histories to be deficient. The ability for cardholders to purchase medical marijuana was not revoked when disqualifying criminal history results were obtained, because controls in the registry are ineffective in preventing sales. In addition, the Program does not revoke cards timely for those with a disqualifying criminal history. For cardholders with insufficient results from name-based checks, the Program did not request fingerprint-based checks as needed.

Through several tests, we identified the following deficiencies in the Program's process to prevent the sale of marijuana to unqualified cardholders based on their criminal history:

- Revocations were not always processed when disqualifying background checks were received. We judgmentally selected 5 cardholders with disqualifying criminal histories from 14 active cardholders in the Program's queue to be reviewed for potential revocation based on background check results. Three of the five purchased medical marijuana after the results of their disqualifying background checks were received by the Program.

- Background checks were not always processed timely. From our review of about 4,600 background check results

available for review, we identified 30 background checks returned from the Records Bureau for insufficient information. The Program had not requested fingerprint-based background checks to assess the cardholders' eligibility until we brought this to their attention. These additional background checks had not been requested for an average of 5 months after the initial name-based check results were found to be inconclusive.

- The Program did not always revoke cards timely. From a random sample of 10 of 70 revoked cards available for our review, we found the Program took about 4.5 months to determine whether registry identification cards should be revoked based on the results of background reports. During this time, 1 of the 10 cardholders purchased marijuana.

Based on the minimal number of applicants with disqualifying criminal history and the cost of acquiring background reports, background check requirements for cardholders exceed the benefit. As a result, a change in the statute should be considered by the Legislature to eliminate the background check requirement for participation in the Medical Marijuana Program. If background checks are not eliminated during the 79th Legislative Session, the Program should enforce existing requirements.

Recommendations

1. Establish a process to evaluate and verify the applicants' requests to grow marijuana, and ensure the reasons are accurately recorded in the registry and reflected on the log for law enforcement.
2. Develop a process to verify the authenticity of physician recommendations for the use of medical marijuana.
3. With the assistance of legal counsel, develop a policy to ensure recommendations for the use of medical marijuana are only accepted from authorized and actively licensed medical professionals.

4. Coordinate with state medical boards to establish a process to monitor physicians' advising the use of medical marijuana and ensure compliance with state laws and regulations.
5. Establish controls to ensure the completeness of applicant information entered into the registry.
6. The Legislature should consider enacting legislation to eliminate the statutory requirement to revoke medical marijuana registry identification cards based on an individual's criminal history identified in background checks.

Stronger Controls Over Program Operations Are Needed

The Medical Marijuana Program (Program) can strengthen controls over its registry, 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.

Registry Controls Over Expired Cards Need Improvement

Controls in the registry do not prevent marijuana sales to cardholders with expired cards. Additionally, stronger controls over the data in the registry can ensure marijuana sales are only made with valid cards and can improve the reliability of registry information. From a random sample of 40 expired cards, 1 made a subsequent marijuana purchase. The sample was selected from 296 cards that expired between September 15 and 21, 2016.

Additionally, we found the expiration date field in the registry does not automatically change the card status from “approved” to “expired” to prevent sales. Further, the card status cannot be manually changed to “expired”, “revoked”, or other card statuses that should prevent sales. While the Program moved certain cardholder records to the registry’s archive to prevent sales, we found this practice to be inconsistent, and not based on documented Program procedures.

NRS 453A.115 restricts the sale of marijuana by medical marijuana dispensaries to holders of valid registry identification cards. Once a card is approved in the registry, the card is considered to be active and all active cards are available for

viewing by dispensaries to execute the sale of marijuana. Controls to prevent cardholders with expired registry identification cards from purchasing marijuana can help enforce the requirement of obtaining an annual physician recommendation. The physician recommendation certifies the Program participants' medical conditions warrant continued use of medical marijuana.

Records for Some Cardholders Could Not Be Located

Medical Marijuana registry records were poorly organized, and some background checks and physician recommendation forms could not be located. The Program is moving to a paperless process and has begun to scan records into the registry. However, records were not scanned consistently, and were randomly stored in file cabinets or stacked around the Program's office. Additionally, records management procedures have not been documented to provide guidance for the organization of records and retention requirements for paper records once scanned.

Background checks were not maintained in a standardized filing system, and cardholder records, which include physician recommendation forms, were haphazardly stacked while awaiting scanning into the registry. As a result, during our audit 10 of 20 background checks and 10 of 30 physician recommendation forms requested could not be located by the Program. Locating specific records required manually searching through stacks of records.

The Program also does not have a process to maintain the quality of its records to include ensuring that scanned documents are accurate, complete, and clear before the physical, original records' destruction, as required by NRS 239.051(4). Nevada's State Administrative Manual requires state agencies to maintain records in a cost effective format, to allow for the rapid retrieval and protection of information. Without a standardized and effective record management process, the Program risks not having reasonable assurance of preserving the integrity and confidentiality of cardholders' sensitive information, including Social Security numbers, criminal histories, and physician recommendation forms indicating medical conditions.

Revenue Collection Process Needs Improvement

The Program's internal controls for invoicing billable activities and collecting delinquent accounts need improvement. From medical marijuana establishment function records, such as inspections results of dispensaries, we identified billable hours that were not invoiced, untimely invoices, and in some cases insufficient information to determine the timeliness of invoices. In addition, the Program did not send out collection notices, and past due accounts were not forwarded for collection in accordance with established procedures. Although the unbilled amounts and past due accounts were not large, improved controls will help ensure all future revenue is properly billed and collected.

Billing Procedures Are Not Consistently Followed

Deficiencies in the Program's invoicing for billable activities resulted in not all hours being invoiced. From a random sample of 39 of 381 establishments, we found 25% of billable hours were not invoiced, resulting in $5,450 of unbilled revenue. Further, invoicing took place an average of 96 days after billable activities had been completed.

Per Program policy, its auditors and inspectors are required to follow NAC 453A for collecting costs, fees, or assessments from establishments for ownership changes, inspections, and substantiated complaint investigations. The policy requires time and effort data to be recorded weekly and for billable time to be additionally recorded on a log used for invoicing.

The Program has several key records related to billing. Records are maintained to track applications, correspondence, audits, inspections, and complaint investigations for each establishment. Invoices are prepared and calculated from the log of time and effort data recorded by staff. However, we found evidence that in some circumstances:

- Billable activities took place, but no billable hours were recorded on individual timesheets or logs used for invoicing.
- Billable hours were recorded only on individual timesheets, and not on logs used for invoicing.

- Billable hours on timesheets and logs were not invoiced.

These deficiencies occurred because management did not follow established internal control practices to review staff work to ensure hours were logged for every billable activity, and classified and documented appropriately to be carried forward to invoicing. As such, errors persisted in billing documentation, impeding the thorough invoicing of billable activities for establishments.

Collection Practices Could Be Enhanced

Management did not enforce existing collections policies and procedures. Further, staff responsible for handling establishment accounts receivables were not aware of procedures for collection efforts. As of October 4, 2016, we identified 32 accounts delinquent for over 60 days totaling $7,100. Of these, billing reminders were sent for only eight, nearly 4 months after receivables became delinquent. Furthermore, none of the delinquent receivables were sent to the Controller's Office for collection, as required by statute.

For past due receivables, Program internal controls require initial delinquency letters be sent after 30 days, and a final delinquency letter after 45 days. Program internal controls and NRS 353C.195(3) then require the assignment of receivables to the Controller's Office for collection after 60 days. In addition, the internal controls require management to review and approve a monthly aged accounts receivable report. Although, this report is reviewed, collection activities did not take place for delinquent accounts. Following Program procedures for billing and collection of establishment function revenues can increase Program revenues.

Recommendations

7. Establish controls to prevent the sale of medical marijuana to ineligible cardholders with expired or revoked registry identification cards.
8. Develop and document record retention guidelines and a quality control process for scanned records, to ensure integrity and safeguarding of sensitive information.
9. Provide oversight to ensure adherence to the Program's policies for billing and collecting all billable hours for services provided to medical marijuana establishments.

Appendix A

Legal Status of Marijuana in United States and District of Columbia

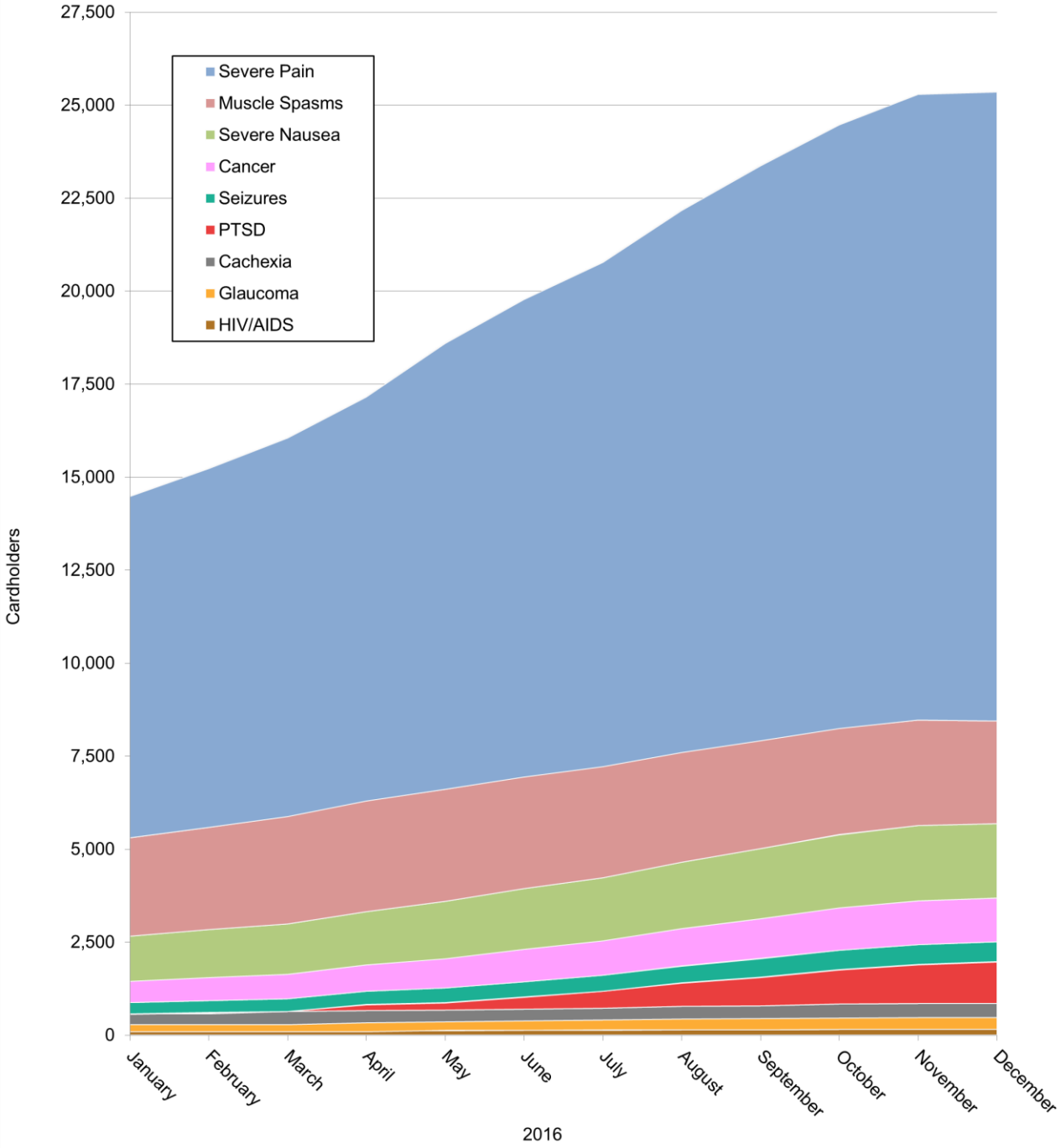
State	Legalized Recreational Use	Legalized Medical Use[1]	State	Legalized Recreational Use	Legalized Medical Use[1]
Alabama	No	Limited	Montana	No	Yes
Alaska	Yes	Yes	Nebraska	No	No
Arizona	No	Yes	Nevada	Yes	Yes
Arkansas	No	Yes	New Hampshire	No	Yes
California	Yes	Yes	New Jersey	No	Yes
Colorado	Yes	Yes	New Mexico	No	Yes
Connecticut	No	Yes	New York	No	Yes
Delaware	No	Yes	North Carolina	No	Limited
District of Columbia	Yes	Yes	North Dakota	No	Yes
Florida	No	Yes	Ohio	No	Yes
Georgia	No	Limited	Oklahoma	No	Limited
Hawaii	No	Yes	Oregon	Yes	Yes
Idaho	No	No	Pennsylvania	No	Yes
Illinois	No	Yes	Rhode Island	No	Yes
Indiana	No	No	South Carolina	No	Limited
Iowa	No	Limited	South Dakota	No	No
Kansas	No	No	Tennessee	No	Limited
Kentucky	No	Limited	Texas	No	Limited
Louisiana	No	Limited	Utah	No	Limited
Maine	Yes	Yes	Vermont	No	Yes
Maryland	No	Yes	Virginia	No	Limited
Massachusetts	Yes	Yes	Washington	Yes	Yes
Michigan	No	Yes	West Virginia	No	No
Minnesota	No	Yes	Wisconsin	No	Limited
Mississippi	No	Limited	Wyoming	No	Limited
Missouri	No	Limited			

Source: National Conference of State Legislatures as of January 2017.

[1] Six states do not have a medical marijuana program; 16 states limit access to certain medical marijuana products; and 29 states including the District of Columbia have comprehensive medical marijuana programs.

Appendix B

Medical Marijuana Cardholders by Qualifying Medical Condition



Source: Program monthly reports for the Medical Marijuana Registry.
Note: Each cardholder may have more than one qualifying medical condition.

Appendix C

Medical Marijuana Establishments and Cardholders by County

	Cultivation Facilities		Dispensaries		Production Facilities		Laboratories	
County	**Provisional**	**Final**	**Provisional**	**Final**	**Provisional**	**Final**	**Provisional**	**Final**
Carson City	5	2	-	2	3	1	-	-
Churchill	-	-	-	1	-	-	-	-
Clark	74	52	4	44	55	29	6	9
Nye	5	7	-	1	3	3	-	-
Storey	-	-	1	-	-	-	-	-
Washoe	23	13	5	8	14	9	-	2
Total	**107**	**74**	**10**	**56**	**75**	**42**	**6**	**11**

Source: Program listing of medical marijuana establishments as of February 9, 2017.

Note: The following 11 counties do not have establishments: Douglas, Elko, Esmeralda, Eureka, Humboldt, Lander, Lincoln, Lyon, Mineral, Pershing, and White Pine.

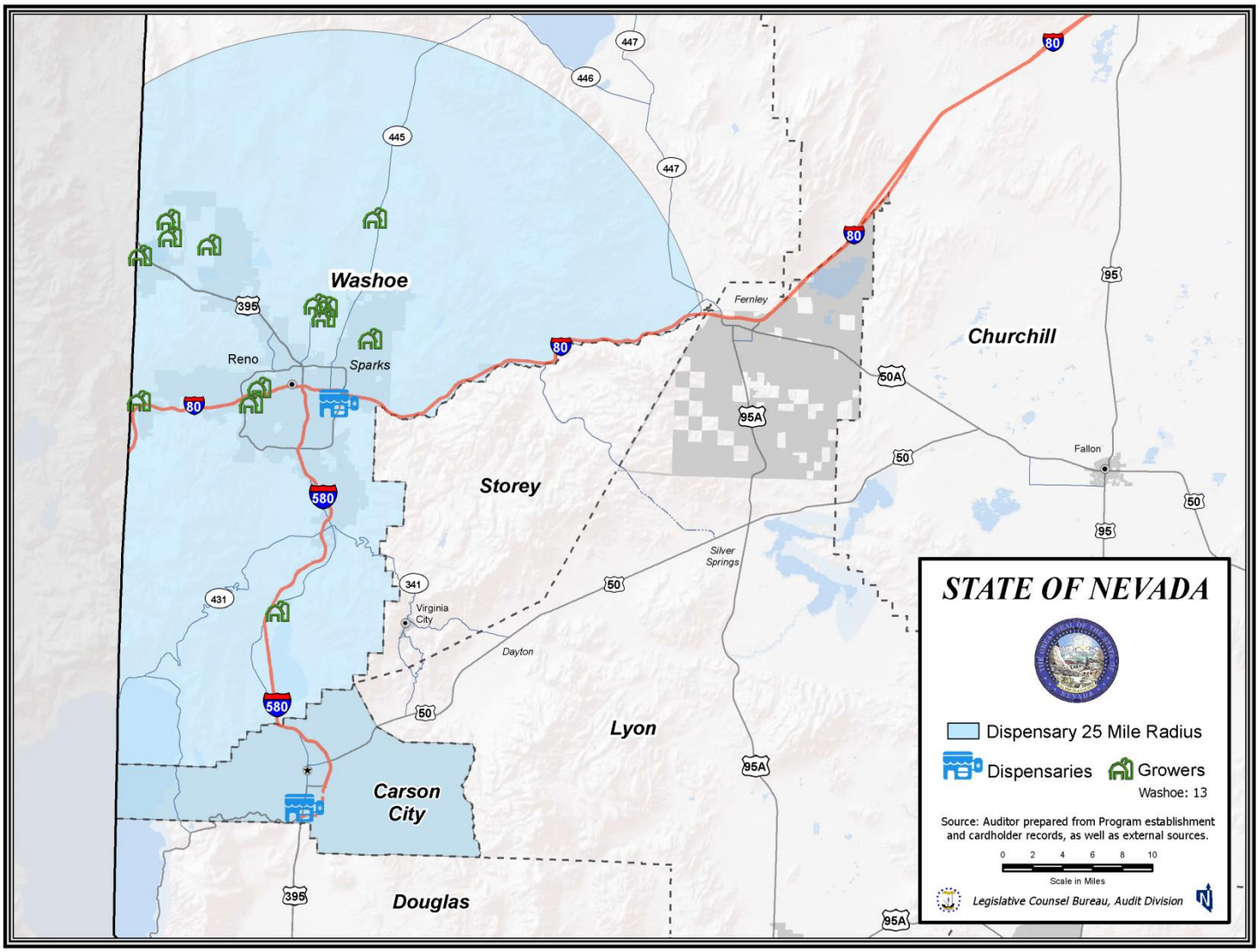
Provisional certificates for establishments are converted to final certificates once an establishment is prepared to begin operations, and the Program finds them compliant with state law and regulation.

County	Cardholders	County	Cardholders
Carson City	711	Lincoln	44
Churchill	199	Lyon	728
Clark	17,864	Mineral	42
Douglas	410	Nye	825
Elko	411	Pershing	35
Esmeralda	8	Storey	18
Eureka	11	Washoe	3,856
Humboldt	88	White Pine	60
Lander	48		
Total (all counties)			**25,358**

Source: Medical Marijuana Registry December 2016 report.

Appendix D

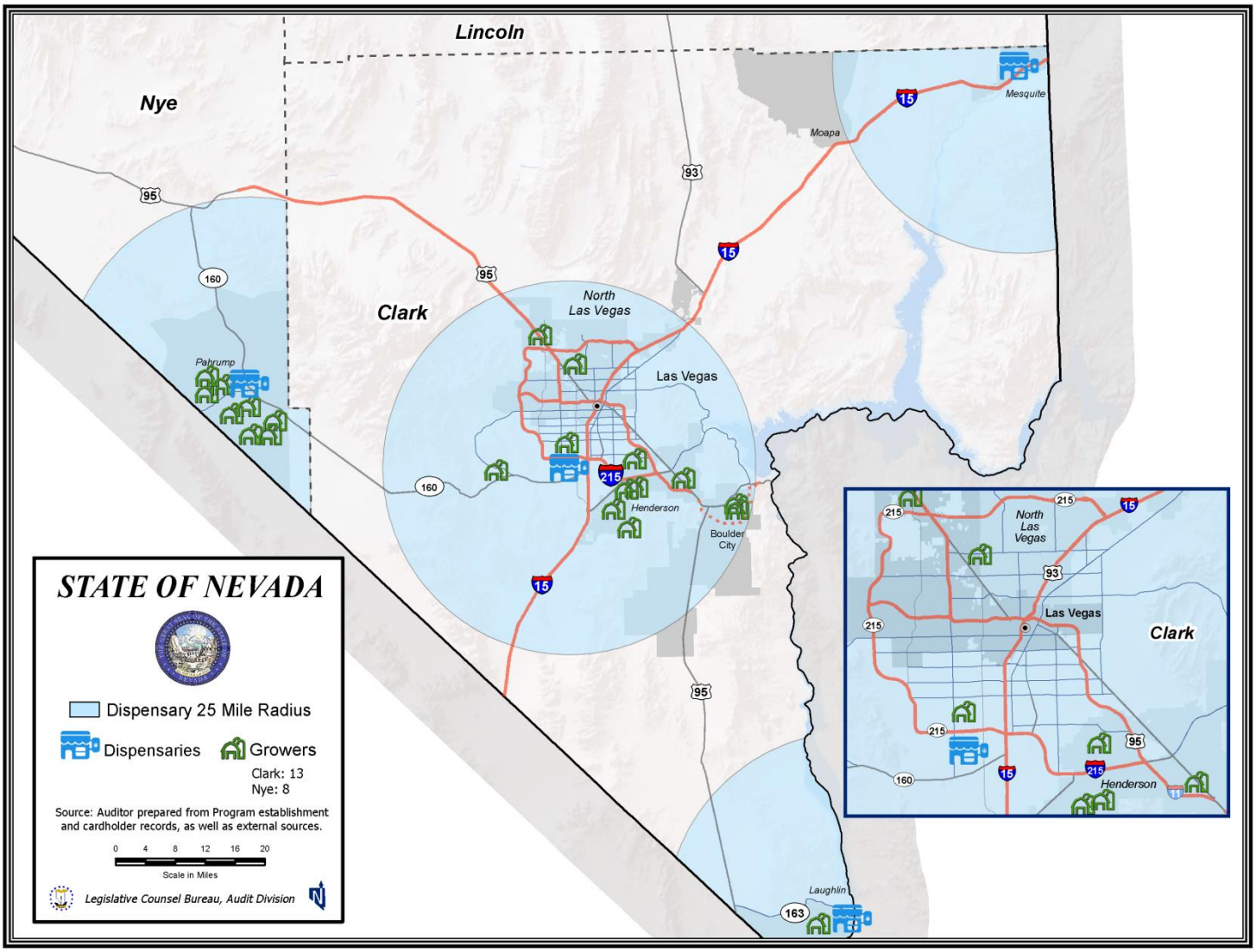
Cardholders Not Meeting 25-Mile Qualification to Grow – Northern Nevada



Note: The map shows the 13 cardholders the Program should not have approved to grow marijuana, between April and September 2016, because their residences were located within 25-miles of an operating dispensary in Washoe County. For purposes of this analysis, only the first operating dispensary in each county is shown as of September 2016. See additional discussion on pages 10-11.

Appendix D (continued)

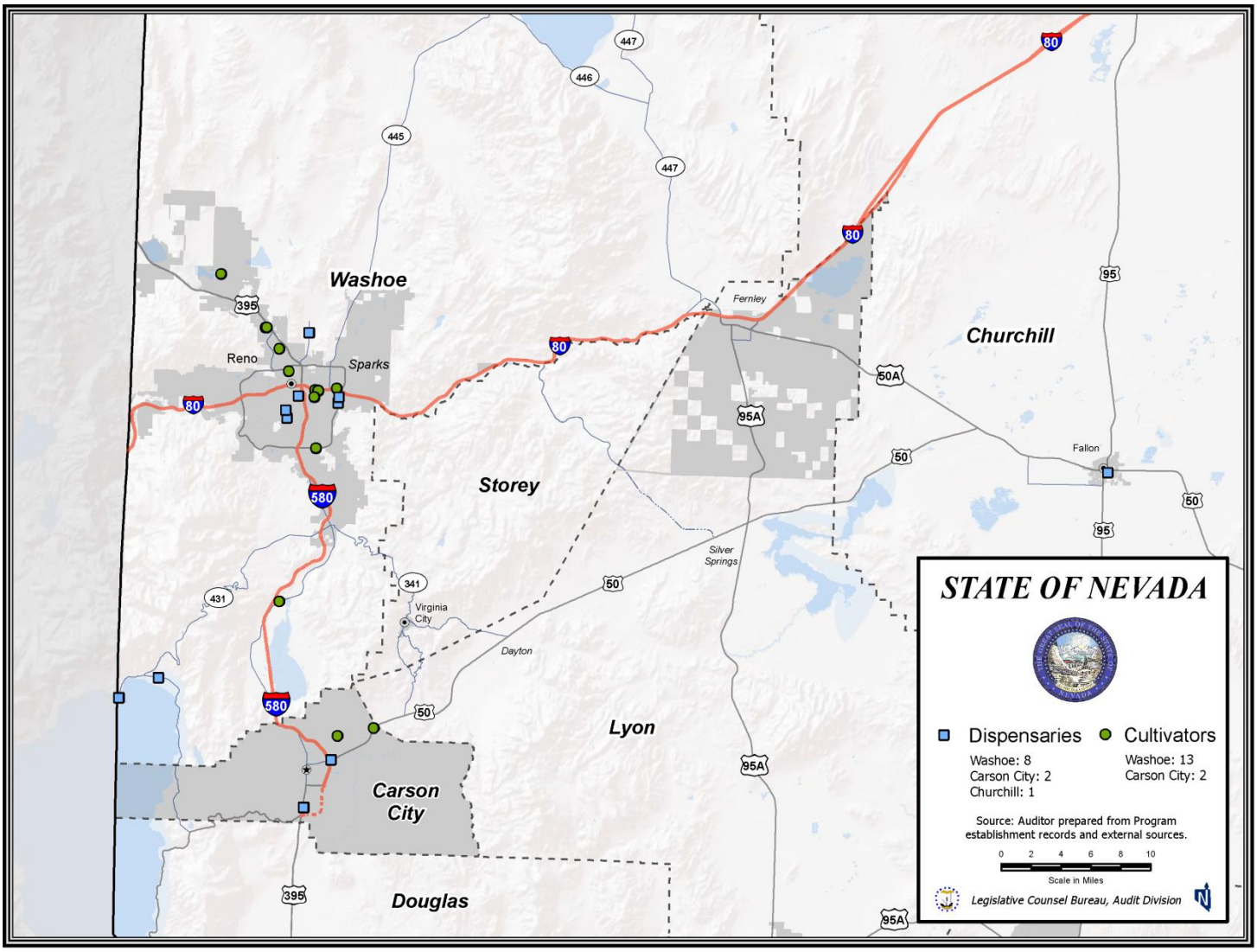
Cardholders Not Meeting 25-Mile Qualification to Grow – Southern Nevada



Note: The map shows the 21 cardholders the Program should not have approved to grow marijuana, between April and September 2016, because their residences were located within 25-miles of an operating dispensary in Clark County or Nye County. For purposes of this analysis, only the first operating dispensary in each county is shown as of September 2016. See additional discussion on pages 10-11.

Appendix E

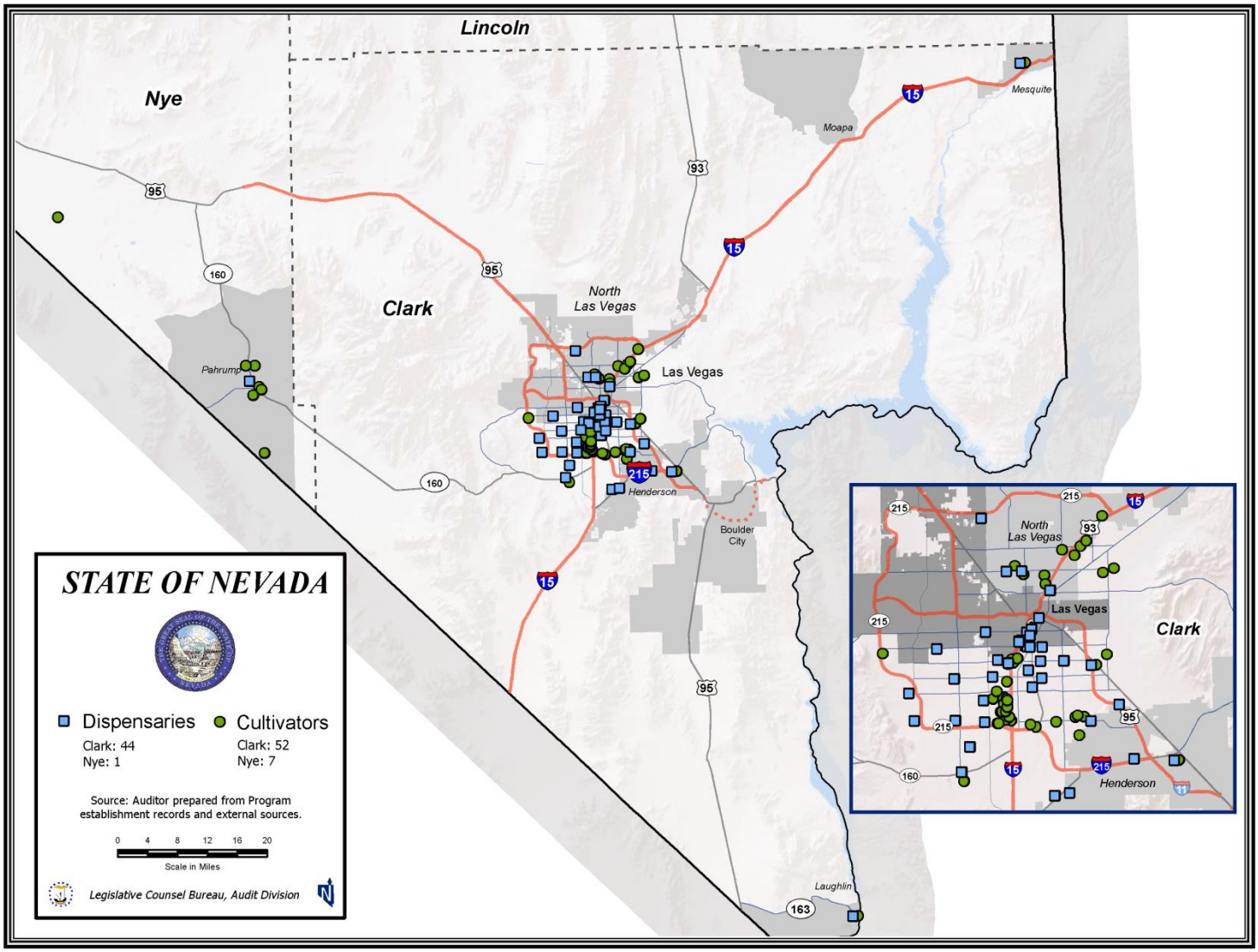
Medical Marijuana Dispensaries and Cultivation Facilities – Northern Nevada



Note: The map shows the locations of the dispensaries and cultivators with Program issued final certificates as of February 9, 2017. These medical marijuana establishments have been issued final registration certificates; however, some may not be open for business. See additional information at Appendix C on page 28.

Appendix E (continued)

Medical Marijuana Dispensaries and Cultivation Facilities – Southern Nevada



Note: The map shows the locations of the dispensaries and cultivators with Program issued final certificates as of February 9, 2017. These medical marijuana establishments have been issued final registration certificates; however, some may not be open for business. See additional information at Appendix C on page 28.

Appendix F
Audit Methodology

To gain an understanding of the Medical Marijuana Program, we interviewed staff and reviewed statutes, regulations, policies, and procedures significant to the Program's operations. We reviewed financial information, budgets, legislative committee minutes, and other information addressing Program activities. We also documented and assessed internal controls over the registry application process to include physician recommendations and grower authorizations, as well as establishment applications, monitoring and inspection processes, and establishment revenue collections. We also reviewed controls over contract management.

To assess the reliability of the Program's registry database, first we tested the database for completeness and accuracy by randomly selecting 10 applications received by mail, 10 by walk-up, and 10 with caregivers and reviewed them to ensure the information on the application was entered accurately into the registry database. During field work, we obtained a download of the registry database as of September 22, 2016, from the Program to perform data reliability testing for our objectives. We tested the accuracy of the expiration field in the database by randomly selecting 40 expired cards and determining whether or not the cardholder renewed their registry card. Then, we tested the reliability of the database specifically for cardholders recorded as marijuana growers. To accomplish this, we randomly selected 10 cardholders from the database labeled as marijuana growers and traced to the physical application to ensure accuracy of the record. We also tested the accuracy of the field in the registry database used to record the qualification for growing by selecting 30 records and tracing to the physical application. We also tested the database for completeness by haphazardly selecting 10 background checks with no criminal history and tracing to the

database to determine if the record was found in the database and recorded properly. During these reliability tests, Program staff were not able to locate some physical cardholder records, specifically for background check reports. Additionally, because some applications could not be found, we were not able to confirm the accuracy of the reason for growing marijuana recorded in the database for 9 out of 30 applications. However, we considered the patient database to be sufficiently reliable to accomplish our audit objectives.

To determine the Program's compliance with statutory requirements, we first held discussions with Program management about the process for validating qualifications for cardholders to grow marijuana. Next, from the Program's registry database, as of September 22, 2016, we determined a population of 2,843 active cardholders flagged as growers and sorted the population to determine the total growers by reason in accordance with NRS 453A.200(6).

To evaluate whether any growers were in violation of statutorily allowable exemptions to grow, we conducted a distance analysis of those flagged in the database under NRS 453A.200(6)(d) for being further than 25 miles away from a dispensary at the time of initial application for a registry identification card. Using geographic information mapping software, we mapped the dispensaries operating with final registration certificates and cardholders with grower authorizations recorded under the statutory exemption for those living more than 25 miles from a dispensary in Washoe, Nye, and Clark Counties as of September 22, 2016. We then identified the applicants approved to grow whose addresses were located within 25 miles of an open dispensary at the time of application.

To determine the Program's enforcement of statutory requirements regarding applicants' ineligibility based on criminal history under NRS 453A.225(1)(b) for knowingly or intentionally selling controlled substances, we reviewed an estimated population of about 4,600 registry applicant background checks received on or about April to June, 2016. First, we separated the background check reports by those with: (1) no criminal history

found, (2) criminal history found but not meeting NRS 453A.225(1)(b) criteria, (3) criminal history found meeting statutory criteria, and (4) insufficient information to determine criminal history. We found 30 background checks returned to the Program for insufficient information and we determined whether fingerprint background checks were requested.

Next, we reviewed marijuana sales history for the 16 applicants we identified with potentially disqualifying criminal histories, and a random sample of 10 Program-denied applicants for disqualifying criminal history from a population of 70 denials. We also calculated how long it took for the Program to deny applicants after receiving background checks with a disqualifying criminal history and checked whether they made purchases.

From the registry database as of September 22, 2016, we identified a population of cards that expired during the preceding 1 week period. We then reviewed sales history for a random sample of 40 of the 296 expired cards. The sales history was limited to the preceding 2 weeks as of the date of analysis. Finally, we tested the functionality of the expired field by executing fictitious sales in a replica of the registry.

To determine whether the Program validates the authenticity of physician recommendation forms as required by statute, we first interviewed Program staff and management about the verification process. Next, we selected and contacted eight states with medical marijuana programs to identify best practices for how to verify physician recommendations.

To determine whether physician recommendation data sent in March 2016 to state medical boards was accurate, we analyzed the 466 physicians in this data, and identified misspellings, duplicates, and misclassifications by physician type through direct error analytics, and comparing the data to licensee data available on state medical board websites. We selected a random sample of 20 physicians, an additional random sample of 40 physicians when we noted potential record errors, and further expanded to a judgmental sample of 39 physicians with license numbers not matching the license number formats for other physician records,

to verify certifications against respective licensing boards. Next, we interviewed representatives from the boards to determine their needs and opinions regarding this data.

To evaluate the adequacy of internal controls in the registry we interviewed Program staff, contractors, and management and reviewed contractor project documents to determine the type of controls in the registry. For controls related to grower authorization, we reviewed the grower data and determined applications are approved without a qualifying reason. For controls related to physician recommendations, we reviewed the cardholder data and determined applications are approved without attending physician information. For controls related to sales prevention, we attempted sales for disqualified cardholders in a replica of the registry, and also reviewed historical sales history in the registry. We reviewed access levels for the registry and establishment databases and compared users to active employee lists. We also reviewed the security levels and access to electronic folders containing personally identifiable information.

To evaluate records management practices, we interviewed Program staff, requested policies and procedures, and reviewed governing statutes, regulations, and manuals. We also identified through other testing steps, instances where Program records, including physician recommendation forms and background checks, could not be found or provided.

To evaluate internal controls over billing and collection practices, we obtained a spreadsheet detailing the 381 medical marijuana establishments with provisional or final registration certificates as of October 4, 2016. We randomly sampled 10% each from the 181 cultivators (18), 66 dispensaries (7), 17 laboratories (2), and 117 producers (12), and traced final certificate dates for the 7 dispensaries to master internal establishment folders to verify the accuracy of the dates. We also obtained individual time and effort reports for 2015 and 2016, a master time and effort log, master internal establishment folders, an invoice aging log, and calendar year 2015 and 2016 invoices through October 4, 2016. Lastly, we obtained Program internal control documents for establishments, including controls related to accounts receivable.

We then consolidated all billable activities found for our random sample of 39 establishments for activities which ended on or before June 30, 2016. We then compared the number of billable hours against the number of hours invoiced for each activity identified, and determined the fiscal impact of any under or over-billing discovered.

Subsequent to the legalization of the recreational use of marijuana in Nevada on November 9, 2016, we reviewed the text of the legalization's underlying ballot initiative, and considered how the legalization of recreational marijuana and related implementation of the new public mandate might impact the Program's processes as well as our findings and recommendations in this report.

For our sample design, we used nonstatistical audit sampling, which was the most appropriate method for concluding on our audit objectives. Based on our professional judgement, review of authoritative sampling guidance, and careful consideration of underlying statistical concepts, we believe that nonstatistical sampling provides sufficient, appropriate audit evidence to support the conclusions in our report. Since complete population data was not available for the data sets used in our analyses, we cannot project our error rates to the population.

Our audit work was conducted from April to December 2016. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In accordance with NRS 218G.230, we furnished a copy of our preliminary report to the Program Manager of the Medical Marijuana Program, Administrator of the Division of Public and Behavioral Health, and Director of the Department of Health and Human Services. On March 14, 2017, we met with agency officials to discuss the results of the audit and requested a written

response to the preliminary report. That response is contained in Appendix G which begins on page 39.

Contributors to this report included:

Yette M. De Luca, MBA Deputy Legislative Auditor	Drew Fodor, MBA Deputy Legislative Auditor
Paul E. Casey, MBA Deputy Legislative Auditor	Daniel L. Crossman, CPA Audit Supervisor

Appendix G

Response From the Division of Public and Behavioral Health

STATE OF NEVADA

BRIAN SANDOVAL
Governor

RICHARD WHITLEY, MS
Director, DHHS

CODY L. PHINNEY, MPH
Administrator, DPBH

JOHN DIMURO, D.O., MBA
Chief Medical Officer

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH
Medical Marijuana Program
4150 Technology Way, Suite 101
Carson City, Nevada 89706
Telephone: (775) 684-3487 · Fax: (775) 684-3213
medicalmarijuana@health.nv.gov

March 26, 2017

Rocky Cooper, CPA
Legislative Auditor
Nevada Legislative Counsel Bureau
401 South Carson Street
Carson City, NV 89701-4747

Dear Mr. Cooper:

We have had the opportunity to review the Legislative Counsel Bureau's draft 2017 Audit Report completed for the Division of Public and Behavioral Health Medical Marijuana Program (program). Based on my review of the findings, we accept the nine recommendations related to the program.

The program will develop and implement new policies, procedures and internal controls and will revise existing procedures to address the audit findings and recommendations. The Division's responses to each audit recommendation are enclosed.

On behalf of the Division, I would like to thank you and your staff for your dedicated work and professionalism throughout this process. Further, the Division appreciated your guidance regarding improving internal controls and operational efficiencies within the program.

Please feel free to contact me if you have any questions or need clarification to this response.

Sincerely,

Kacmonke for

Cody L. Phinney, MPH
Administrator, Division of Public and Behavioral Health

1

Response to LCB 2017 Audit
Nevada Department of Health and Human Services
Division of Public and Behavioral Health
Medical Marijuana Program

Recommendation 1

Establish a process to evaluate and verify the applicants' requests to grow marijuana, and ensure the reasons are accurately recorded in the registry and reflected on the log for law enforcement.

Response

The program will develop and implement policies and procedures to verify valid qualifications for home-growers, and to ensure all required data elements are included in the law enforcement verification log. New or revised procedures will also be added to the registry employee desk manual.

Recommendation 2

Develop a process to verify the validity of physician recommendations for the use of medical marijuana.

Response

The program will develop and implement processes and internal controls to verify the validity of physician recommendations for the medical use of marijuana. New or revised procedures will also be added to the registry employee desk manual.

Recommendation 3

With the assistance of legal counsel, develop a policy to ensure recommendations for the use of medical marijuana are only accepted from authorized and actively licensed medical professionals.

Response

The program will seek the advice of the Division's Chief Deputy Attorney General to develop and implement a policy to ensure medical marijuana recommendations are only accepted from authorized and actively licensed physicians. New or revised procedures will also be added to the registry employee desk manual.

2

Encl 1

Recommendation 4

Coordinate with state medical boards to establish a process to monitor physicians' advising the use of medical marijuana and ensure compliance with state laws and regulations.

Response

The Division will coordinate with the respective medical licensing boards to develop and implement a process whereby the agencies will jointly monitor physicians recommending the medical use of marijuana to ensure compliance with state laws and regulations.

Recommendation 5

Establish controls to ensure the completeness of applicant information entered into the registry.

Response

The program will implement policies and procedures to ensure all registry applications are complete and contain all required information to include attending physician license numbers and cultivator's authorization and qualifications to grow. This will occur in conjunction with remedies implemented for recommendation. New or revised procedures will also be added to the registry employee desk manual.

Recommendation 6

The Legislature should consider enacting legislation to eliminate the statutory requirement to revoke medical marijuana registry identification cards based on an individual's criminal history identified in background checks.

Response

The Division accepts and supports this recommendation and will work with the legislature to provide any information and assistance necessary to enact such legislation.

Recommendation 7

Establish controls to prevent the sale of medical marijuana to ineligible cardholders with expired or revoked registry identification cards.

Response

The Division has already taken steps to implement controls and fix automation issues related to expired cards and will continue to work with IT developers to address any unresolved issues pertaining to medical marijuana sales to holders of revoked registry identification cards, and to build internal controls into computer code as necessary to prevent unauthorized marijuana sales in the future.

Recommendation 8

Develop and document record retention guidelines and a quality control process for scanned records, to ensure integrity and safeguarding of sensitive information.

Response

The program will develop and implement policies, procedures and controls to ensure that records are properly stored and retained as required and to ensure no scanned records are discarded before the program has positive confirmation the electronic records have been updated.

Recommendation 9

Provide oversight to ensure adherence to the Program's policies for billing and collecting all billable hours for services provided to medical marijuana establishments.

Response

As of March 16, 2017, the program implemented controls via an email supervisory directive to ensure a single time and effort tool is used for the recording of billable hour events from which all billable hour invoices will be generated. The program will memorialize these controls into a policy and procedure document.

Division of Public and Behavioral Health's Response to Audit Recommendations

	Recommendations	Accepted	Rejected
1.	Establish a process to evaluate and verify the applicants' requests to grow marijuana, and ensure the reasons are accurately recorded in the registry and reflected on the log for law enforcement	X	
2.	Develop a process to verify the authenticity of physician recommendations for the use of medical marijuana	X	
3.	With the assistance of legal counsel, develop a policy to ensure recommendations for the use of medical marijuana are only accepted from authorized and actively licensed medical professionals	X	
4.	Coordinate with state medical boards to establish a process to monitor physicians' advising the use of medical marijuana and ensure compliance with state laws and regulations	X	
5.	Establish controls to ensure the completeness of applicant information entered into the registry	X	
6.	The Legislature should consider enacting legislation to eliminate the statutory requirement to revoke medical marijuana registry identification cards based on an individual's criminal history identified in background checks	X	
7.	Establish controls to prevent the sale of medical marijuana to ineligible cardholders with expired or revoked registry identification cards	X	
8.	Develop and document record retention guidelines and a quality control process for scanned records, to ensure integrity and safeguarding of sensitive information	X	
9.	Provide oversight to ensure adherence to the Program's policies for billing and collecting all billable hours for services provided to medical marijuana establishments	X	
	TOTALS	9	