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Independent Regulatory
Review Commission

17 October 2022

Dear members of the Pennsylvania IRRC,

Thank you for the opportunity to provide comments on the Final Form Regulation #10-219 for the Department of Health 28 PA. CODE CHS. 1131-1230 AND 1141a-1230a regarding Medical Marijuana. The following statements are mine alone and represent no other person or entity.

My name is Holly Lang. I was a licensed practicing cannabis pharmacist at a dispensary within the Commonwealth from July 2019 until June 2022. I was laid off, effective immediately, on June 1, 2022. The reason given for my layoff was that my position was eliminated.

Several other pharmacists from the same employer were also laid off that day. In the days before and in the months since my layoff, pharmacists employed at multiple other dispensaries within Pennsylvania have been laid off as well due to their positions being eliminated.

I applaud your acceptance of clarifying and ultimately changing the wording in section 1161a.25 *Licensed medical professionals at the facility,* under subsection (b). Further, I propose the Office of Medical Marijuana within The Department open an investigation into facility owners violating the minimum 1:1 ratio that per your clarification is enshrined in Act 44 of 2021. There are several public comments stating that this practice has been and still is going on within dispensaries in Pennsylvania, along with evidence of medical professionals being laid off. These findings warrant investigation of potentially serious violations of the Act. The offending employers, if found in violation of the Act, should be sanctioned and fined according to the regulations set forth in § 1141a.47. General penalties and sanctions.

Additionally:

<u>Regarding § 1161a.23. Dispensing medical marijuana products</u>

The intent of changing the verbiage in subsection (b) from dispensary to dispensary's medical professional was to clarify who is responsible for conducting the activity required in subsection (b)(2), which is reviewing the information on the patient's certification via the Department's database.

However, by changing the verbiage in subsection (b) you also change who is responsible for the activity in subsection (b)(1), Verify the validity of the patient or caregiver's identification card using the electronic tracking system.

This creates an inherent change from every employee working at the facility having the ability to verify the validity of the identification card to limiting the activity to only the medical professional. I sincerely hope this was an oversight and recommend the following adjustments to section 1161a.23.:

1. Change the verbiage in subsection (b) so that there is no distinction of who is responsible for an activity
2. Change the verbiage in subsection (b)(1) to identify that every employee at the facility may verify the validity of identification cards
3. Change the verbiage in subsection (b)(2) to identify that the medical professional at the facility is solely responsible for reviewing the certification, for example:

Proposed language for:

§ 1161a.23. Dispensing medical marijuana products.

(a) A dispensary may only dispense medical marijuana products to a patient or caregiver who presents a valid identification card to an employee at the facility who is authorized to dispense medical marijuana products at the facility. The valid identification card must be presented in-person at the facility or from within a vehicle on the dispensary's site.

(b) Prior to dispensing medical marijuana products to a patient or caregiver:

(1) An employee at the facility shall verify the validity of the patient or caregiver identification card using the electronic tracking system

(2) The medical professional working at the facility shall review the information on the patient's most recent certification by using the Department's database.The following requirements apply:

Regarding § 1161a.24. Limitations on dispensing

Please clarify how The Department expects the dispensary to calculate the cumulative quantities of medical marijuana units purchased over a rolling 90-day period. This process would currently involve reviewing all of a patient's purchases within the 90-day period, throughout the entire Commonwealth, and adding up the number of medical marijuana units to ensure compliance. The medical professional only has access to the quantities of medical marijuana purchased at the facility they are currently working at, not every facility. Please consider putting a stay on this provision until The Department can verify that a reliable and prompt method of calculating the number of medical marijuana units, across the Commonwealth, purchased within a rolling 90-day period is readily available to dispensary owners and medical professionals.

Regarding § 1161a.25. Licensed medical professionals at facility

Please consider amending a portion of wording under subsection (b) to: "Furthermore, no less than one dedicated medical professional must be present either, physically or by synchronous interaction, for each distinct dispensary facility location during all operating hours and shall not cover more than one dispensary facility location simultaneously, regardless of whether in-person or synchronous interaction is used"

"During all operating hours" appears in subsection (a), but given the potential for misinterpretation, I recommend restating it in subsection (b). "Simultaneously" makes it clear that a medical professional can't be working at one facility one minute, and then another facility the next minute.

Regarding § 1181a.22. Practitioners generally

In subsection (c) please consider removing the sixth word in the sentence, "dispensary", and replacing it with "the dispensary medical professional". The reporting of an adverse reaction should be directed to the medical professional, not the lay employees, of a dispensary. Only the medical professional at the dispensary facility has the appropriate training to properly assess the implications of an adverse reaction.

Regarding § 1181a.23. Medical professionals generally

When medical professionals call a certifying physician most often they are directed to leave a verbal message with whoever at the office answers the phone or at best a voicemail in a mailbox that most likely doesn't have its messages retrieved by the certifying physician. This does not translate into the most direct and immediate means of communication and, in turn, is also not verifiable that the communication was actually given. Email allows for direct verification that the event was reported to the certifying physician as well as when it was sent. Please reconsider allowing email or telephone calls to be acceptable forms of communication of an adverse event to a certifying physician.

My sincere thanks again for your consideration of my comments and your service to the Commonwealth.

Sincerely,

Holly Lang, PharmD