



DH, MMRegulations

From: Tatiana Calvo <tcalvo@col-care.com>
Sent: Tuesday, April 6, 2021 5:25 PM
To: DH, MMRegulations
Cc: William Theodat
Subject: [External] Rulemaking Comments - Columbia Care
Attachments: Col Care Comments - PA Rulemaking 4.6.21 TC.pdf

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Good evening,

Attached please find comments on the proposed modifications to the Department of Health's Medical Marijuana regulations.

Please let us know if you have any questions.

Thank you,

Tatiana Calvo

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SUBMITTED VIA EMAIL @ RA-DHMMregulations@pa.gov

John J. Collins, Director
PA Department of Health- Office of Medical Marijuana
Health and Welfare Building- Room 628
625 Forster St.
Harrisburg, PA 17120

April 6, 2021

Re: Proposed Rulemaking Medical Marijuana

Dear Director Collins,

Columbia Care Pennsylvania LLC ("Columbia Care") respectfully submits this letter of comment in relation to the Department of Health's Office of Medical Marijuana ("OMM") proposed modifications to the medical marijuana regulations. As you know, Columbia Care operates three medical marijuana dispensaries in the Commonwealth of Pennsylvania, and, as such, we greatly appreciate the opportunity to provide feedback on the proposed regulations. We believe OMM's proposed modifications represent thoughtful and important advances in the Commonwealth's medical marijuana program.

Within this letter, we intend to provide suggestions that we believe will further advance the OMM's interest in continuing to develop a robust, and effective, medical marijuana program for patients. While some of our recommendations are not specifically contemplated for revision in the current proposed rulemaking, we believe the following concerns raised are germane given the nature of the proposal and would help to provide greater access to patients and help to effectively administer and streamline compliance obligations. We respectfully request that OMM consider the following suggestions when finalizing these regulations:

1. *Modifications to §1161a.26. Dispensary Facilities*
2. *Modify §1161a.27.e to allow for home delivery of medical marijuana products to patients and caregivers by establishing regulations for such actions based on safe and secure transport practices.*
3. *Modify §1161.31(a)(4) pertaining to storage and retention of safety and surveillance data.*

Modify §1161a.26. Dispensary facilities

This proposed section modifies the current §1161.26 (relating to dispensary facilities) in two ways, as detailed as follows. This proposed section imposes restrictions with respect to dispensary facilities and amenities. It also provides that individuals under 18 years of age may not enter a dispensary unless the individual is a patient or accompanied by a parent, guardian or caregiver. This proposed section further provides signage requirements for specific areas of the facility.

Second, proposed subsection (e)(1) provides that signage in limited access areas must state that access is limited to authorized personnel and escorted "individuals," as opposed to the word "visitors" found in the current subsection

(e)(1). This change is proposed to remove references to "visitors" wherever possible, as discussed elsewhere in this preamble.

Current §1161.30 is entitled "Visitor access to dispensary facilities." This proposed section is entitled "Access to dispensary facilities." This change proposes removal of the term "visitor" to emphasize that dispensaries are not open for general visitation.

Replacing "visitors" with "individuals" and requiring signage in limited access areas be replaced with the proposed verbiage to "emphasize that dispensaries are not open for general visitation" is ambiguous with respect to the intended target viewer. Dispensary employees are aware of current regulations as they relate to entry being limited to those providing goods and services. Those visits are generally scheduled unless urgent and the visitor is escorted by an employee who, with access controls in place, must provide the visitor access to the limited access area so they may complete their required task(s).

Changing signage at limited access areas to address patients/caregivers is not necessary. Identifying an area as "limited access" inherently dictates it is not open to general traffic. Furthermore, with access controls, limited access areas cannot be entered without proper credentials.

Modify §1161a.27.e to allow for home delivery of medical marijuana products to patients and caregivers

The proposed subsection, (e)(1) of §1161a.27, revises the prohibition on delivering medical marijuana products by prohibiting a dispensary from contracting delivery to third parties, in addition to prohibiting a dispensary from delivering to a patient or caregiver, and by adding a prohibition on the sale of items unrelated to the use of medical marijuana. These revisions seek to limit the services a dispensary may provide to a patient or caregiver that are unrelated to the sale of medical marijuana products.

Whether in this rulemaking or a subsequent action, OMM should consider expanding options for home delivery by licensed dispensaries in order to increase access and convenience for patients in the Commonwealth. Expanding on the Proclamation of Disaster Emergency issued on March 6, 2020 by Governor Wolf, whereby §1161a.27 was relaxed in order to facilitate home delivery of medical marijuana products from caregivers to patients citing potential exacerbation of contracting COVID-19, OMM should consider expanding access for patients by allowing regulated and licensed dispensaries to offer home delivery to patients and caregivers under the same guise. OMM could design and facilitate a home delivery program with strict adherence to anti-diversionary and safety protocols and approve dispensaries for home delivery based on submission of compliant Standard Operating Procedures ("SOP's) based on programmatic standards from OMM. Many neighboring jurisdictions have enabled such programs and have ensured safe and secure transport while seeing their patient-bases increase due to this service expanding access.

Many legal patients in the Commonwealth of Pennsylvania cannot travel to access points to receive their medicine due to various constraints; especially those patients that are bed-ridden, live a great distance from an access point, or for those that are or were hospitalized during the pandemic. Allowing for home delivery of medicine by licensed dispensaries is a sensible and compassionate option for these patients and OMM should consider designing protocols to ensure the safety and functionality of providing patients additional access points well into the future. We stand ready to support the state in the onboarding of such a program.

Modification of §1161.31 (a)(4) section of Security and Surveillance

Current verbiage in temporary regulations §1161.31 (a)(4)

(4) The ability to record and store all images captured by each surveillance camera for a minimum of 2 years in a format that may be easily accessed for investigative purposes. The recordings must be kept:

(i) At the facility:

(A) In a locked cabinet, closet or other secure place to protect it from tampering or theft.

(B) In a limited access area or other room to which access is limited to authorized individuals.

(ii) At a secure location other than the location of the facility if approved by the Department.

The 2-year retention requirement for video surveillance is excessive. A more readily manageable requirement of 90 days is requested for consideration. The request is consistent with regulations of surrounding states and the District of Columbia.

Current regulations relating to inventory control and diversion prevention afford timely discovery of an event that may occur. Once discovered, the video surveillance of the event is downloaded and retained and/or provided to the required entity. If necessary, the event can be retained in perpetuity.

Presumably, the requirement is related to the general 2-year statute of limitations for misdemeanor and minor felony crimes in Pennsylvania. Should a crime carrying that grade of offense occur inside or on the curtilage of a facility, it would be observed and/or known in a timely manner. Even with a reasonable delay in reporting, the proposed 90-day retention requirement would suffice.

Surrounding jurisdiction retention requirements:

Delaware – 30 Days

District of Columbia – 30 Days

Maryland – 30 Days

New Jersey – 30 Days

New York – 90 Days

Virginia – 30 Days

Conclusion

Once again, we greatly appreciate the opportunity to provide these suggestions. Columbia Care is proud to be a contributor to Pennsylvania's impressive medical marijuana program, we look forward to further collaborating on these important updates to the regulations and others to come.

Thank you for your consideration of the above comments, please do not hesitate to contact us with any questions.

Sincerely,



Tatiana Calvo
VP, Regulatory Compliance
Columbia Care

Encl.