

April 5, 2021

John J Collins  
Director Office of Medical Marijuana  
Department of Health  
Room 628 Health and Welfare Building  
628 Forster Street  
Harrisburg PA 17120

**Re: Medical Marijuana Regulation #10-219 (IRCC #3290); Proposed Permanent Medical Marijuana Regulations for the Pennsylvania Department of Health**

Dear Mr. Collins:

On behalf of Maitri Medicinals, please accept the following comments on the proposed permanent medical marijuana regulations:

1. **§ 1161.26. Dispensary facilities; § 1161.29. Plans of operation; § 1161.30. Visitor access to dispensary facilities; § 1161.34. Sanitation and safety in a facility.**

DOH Proposed Rulemaking:

*DOH proposed to replace "the word "visitors" with "individuals requiring access to the facility." This change is proposed to remove references to "visitors" wherever possible, as discussed elsewhere in this preamble".*

Desired Regulatory Change:

Maitri Medicinals requests that the original temporary regulation language be retained.

Rationale

Maitri Medicinals assumes that referenced "preamble" can be found in the proposed rulemaking for **§1151a.22. Plans of operation**, as follows:

*The Department proposes this revision to emphasize that grower/processor facilities are not open to the public and are not permitted to have non-essential visitors.*

Whereas Maitri Medicinals agrees that dispensary facilities are not "open to the public", restriction of approved visitor access to dispensary facilities may be in violation of **§ 1141.47. General penalties and sanctions**, as follows:

*(a) In addition to any other penalty imposed by law for violations of the act or this part, the Department may take one or more of the following actions:*

*(1) Suspend or revoke a permit if any of the following occur:*

.....

*(iii) The medical marijuana organization violates a provision of other State or local laws regarding the operation of its facility.*



Pa Code Chapter 44 Discrimination of the Basis of Handicap or Disability provides that:

*If a handicapped or disabled person, with reasonable accommodation, meets the essential eligibility requirements for and is similarly situated with able-bodied persons in terms of need and desire to use, enjoy or benefit from a public accommodation, then reasonable accommodations shall be made to assure the person opportunity substantially equivalent to that of able-bodied persons to use, enjoy and benefit from the public accommodation in an integrated setting; provided that nothing in this section may be construed to impose an undue hardship upon an owner, operator or provider of a public accommodation, and provided further that nothing in this section may be construed so as to impose a demonstrable and serious threat of harm to the handicapped or disabled person or a demonstrable threat of harm to the health and safety of others.*

Maitri Medicinals believes that disallowing approved visitors from the dispensaries will violate the spirit of the PA Code Chapter 44, as elderly patients and those patients who require the accommodation of a support individual will no longer be able to access the dispensary, unless that support individual becomes a caregiver which is a costly and time-intensive process that not all patients can afford. Many of the qualifying conditions result in comorbid health conditions which create practical difficulties for members of the program who benefit from the aid of family member or friend. Disallowing approved visitors from the dispensaries creates a true barrier of care as well as a creating another cost barrier.

## 2. § 1161.30. Visitor access to dispensary facilities:

### Existing Temporary Regulation:

*(a) A dispensary shall post a sign in a conspicuous location at each entrance of the facility that reads:*

*THESE PREMISES ARE UNDER CONSTANT VIDEO SURVEILLANCE.*

*NO ONE UNDER THE AGE OF 18 IS PERMITTED TO ENTER UNLESS THE INDIVIDUAL IS A PATIENT OR ACCOMPANIED BY A PARENT, GUARDIAN OR CAREGIVER.*

### DOH Proposed Rulemaking:

*The current subsection (a) provides that a dispensary must post a sign at each entrance indicating that the premises are under constant video surveillance and that no one under 18 years of age is permitted to enter unless the individual is a patient or accompanied by a parent, guardian or caregiver. The proposed amendments include adding language to the sign indicating that only employees, patients and caregivers may enter, and that anyone under 18 years of age entering the dispensary must be a patient **and** accompanied by a parent. This proposed section clarifies that a dispensary is open only to employees, cardholders and individuals requiring access to provide goods or services.*

### Desired Regulatory Change:

Maitri Medicinals requests that the original temporary regulation language be retained.





Rationale:

The proposed rulemaking change would result in additional barriers to care for program participants who have young children. Under the proposed rulemaking, patients will experience an increased expense for program participation associated with the need to organize childcare simply to access the care for which they are entitled under the Act. This proposed regulation may also result in an increased risk of child endangerment for those who leave their children at home to access care.

**3. § 1161.31. Security and surveillance**

Existing Temporary Regulation:

*(a) A dispensary shall have security and surveillance systems, utilizing commercial-grade equipment, to prevent unauthorized entry and to prevent and detect an adverse loss. The security and surveillance systems must include all of the following:*

.....

*(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.*

Desired Regulatory Change:

*(4) The ability to record and store all images captured by each surveillance camera for a minimum of ~~2 years~~ 90 days in a format that may be easily accessed for investigative purposes.*

Rationale:

The current and proposed 2-year data storage requirement far exceeds standard data retention requirements associated with other state medical marijuana programs as well as other regulated industries (e.g., banks, casinos). Maitri Medicinals believes that a 90-day data retention period is more appropriate and will achieve the security goals intended by the ACT. Lowering the data retention period to 90 days will substantially reduce overall security costs which will translate to an overall lower cost for care currently shouldered by the patient participants.

Thank you for your consideration,



Terri Kroh B.S.Pharm, R.PH, AAHIVE

Director of Pharmacy

