DH, MMRegulations

From: Theodore C. Flowers <ted@moriconiflowers.com>
Sent: Friday, April 2, 2021 5:41 PM
To: DH, MMRegulations
Subject: [External] PROPOSED RULEMAKING Medical Marijuana – Public Comments and Suggestions
Attachments: CannTech PA LLC - Regulations Comment Letter 4.2.2021.pdf

Importance: High

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Dear Director Collins:

On behalf of the CannTech PA, LLC (CR04-GP20-5701), attached please find correspondence providing comments to the Department's publication of proposed permanent regulations governing the Commonwealth's Medical Marijuana Program.

Thank you for your kind courtesies and attention.

Respectfully submitted.

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April 2, 2021

VIA E-MAIL (RA-DHMMREGULATIONS@PA.GOV) & 1ST CLASS MAIL

John J. Collins, MBA, R.T. (R)(N), CNMT
Director, Office of Medical Marijuana
Office of Medical Marijuana
Health and Welfare Building
625 Forster Street
Harrisburg, PA 17120

Re: Regulation #10-219: Medical Marijuana
PROPOSED RULEMAKING Medical Marijuana – Public Comments and Suggestions

Dear Director Collins:

Please accept the following as CannTech PA, LLC's (CR04-GP20-5701)(hereinafter "CannTech") response to the Pennsylvania Medical Marijuana Program's notice of proposed regulations as published in the Pennsylvania Bulletin on March 6, 2021. For expedience, CannTech offers the following seriatim comments:

1. **28 § 1151.35 Transportation of medical marijuana**

   a. Comment
      i. CannTech would like to see an increase in the limited storage specifications from the current 1'x1'x1' requirements for transport of products between grower/processor facilities.
   b. Support
      i. The current specified size of the storage container is too small to accommodate the amount of product that needs to be transported.
      ii. Storage container size restriction has no material purposes and adds no benefit.

iii. A larger storage container would facilitate transporting and ultimately delivering more product into the market benefitting patients throughout the Commonwealth.
iv. Limiting the size of the product storage containers increases the cost of transporting product which ultimately increases the cost of the products for patients.
v. A larger storage container:
    1. Keeps inventory lots in one package instead of breaking up;
    2. Mitigates potential for destruction of product that is being unnecessarily forced into smaller containers to comply with regulations.
        a. Squeezing into small container could cause overheat issues which can materially impact product and compromise their efficacy.
    3. Other medical marijuana states do not have similar constraints.

2. <u>28 § 1151.35 Transportation of medical marijuana ("Trim")</u>

a. <u>Comment</u>
    i. We believe grower/processors should be permitted to transport Trim between grower/processor facilities similar to dry leaf and other plant material.
b. <u>Support</u>
    i. Trim clearly falls into the category of "plant material" which Act 16 permits grower/processors to transport to one another pursuant to Section 701 of Chapter 7.
    ii. Trim is a valuable part of the marijuana plant that can be processed into medicinal products.
    iii. Permitting the transport of trim among grower/processors will facilitate greater product access for all patient across the Commonwealth.
    iv. Pennsylvania is an outlier among the other state medical marijuana programs which account for the use of trim in processing and permit transport among grower/processors.
    v. The scientific (plant science) and regulatory communities commonly define "trim" as "the excess snipping of leaves from buds of marijuana plants."

vi. As presently drafted, the Department's regulations do not differentiate between parts of the plant, instead creating defined terms for "seeds," "immature medical marijuana plants," or "medical marijuana plants."
vii. Adding a definition for "plant material" to include "trim" and amending 1151a.35 to include trim are the easiest way to clarify this issue.

3. 28 § 1161.26(e) Dispensary facilities

a. Comment
   i. The new requirement to change all signage to replace the word "visitor" with "individual" creates an unnecessary expense without adding any particular substance to the regulation.
   ii. Similarly, requiring an additional change signage replacing the word "or" to "as is" fails to provide any added benefit to the existing regulation.
b. Support
   i. The cost of replacing the word "visitor" with "individual" in all signage currently posted in facilities is prohibitive and unduly burdensome without any defined benefit. Indeed, with each sign costing $500, and with multiple signs in each facility, not to mention the labor required for installation, thousands of dollars would be expended without justification.

4. 28 § 1151.26 Security and surveillance (Grower/Processor); 28 § 1161.31 (Dispensary)

a. Comment
   i. Video camera storage requirements should include store footage only when there is **motion**. Currently, the requirement is to store all camera footage.
b. Support
   i. Requiring the storage of 24-hour footage is cost prohibitive.
   ii. Storage of footage without motion activation is not serving any material purpose.
   iii. Current storage, inspection, and failure notification systems, among other regulatory requirements, ensure video integrity is maintained.
   iv. Other medical marijuana states do not require this, including but not limited to MA, NJ, MD and FL.

5. **28 § 1161.39 Electronic tracking system**

    a. Comment
        i. Licensees should be permitted to API their PA Department vetted and approved third-party software into the MJ Freeway platform.
        ii. Permitting such integration enhances the patient experience by providing real time critical and analytical data regarding an individual patient's treatment profile and also enhances operational efficiency which would provide further assurance of strict regulatory compliance.

    b. Support
        i. Other state medical marijuana programs permit this.
        ii. Permitting provides greater efficiency and efficacy in seed to sale tracking
        iii. Licensees can be required to establish the necessary protections to API to satisfaction of Department.

6. **28 § 1161.27 Items and service provided at a dispensary**

    a. Comment
        i. The regulations should permit percentages and dollar amount of discounts to be disclosed to patients.
        ii. Dispensaries should also be permitted to give away non-cannabis items to patients, i.e., t-shirts, hats and other non-cannabis promotional items.
    b. Support
        i. This provides more transparent notice to patients and an opportunity to reduce patient costs.
        ii. There is no material reason to prevent sale of non-cannabis promotional items that have been prior approved by the Department.

7. **Display Operations (no comparable regulation)**

    a. Comment
        i. Patient consultants are not currently allowed to touch display items stored in glass display cases.

b. Support
    i. Permitting patient consultants to show patients items facilitates education for patients.
    ii. Current security, storage, handling and disposal practices could easily be adapted to allow more direct communication between patient consultants/dispensary agents and patients/caregivers.
    iii. Many patients are unfamiliar with medical marijuana and its form factors and delivery systems.
        1. Allowing more direct presentation facilitates patients making informed decisions.
        2. Other medical marijuana states allow more product interaction between patient consultants and patients enabling patients to better understand the different form factors, terpene profiles and other relevant data points.
        3.

8. 28 § 1171.29 Testing Requirements

a. Comment
    i. The proposed subsection (c) amends the current subsection (c) by requiring one approved laboratory to test a harvest sample and then a separate and distinct approved laboratory to test a processed sample. While the proposed change does not change the number of tests to be conducted, it requires two different approved laboratories to each conduct one test[1]. This creates unnecessary expense.

b. Support
    i. In addition to unnecessary expenses, requiring two different laboratories can also have unintended consequences like immaterial discrepancies that delay product getting to patients.

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[1] As an aside, the regulatory analysis of the current subsection (c) appears inconsistent with the language of current subsection (c), implying that an approved laboratory must test *four* samples: two samples at harvest and two samples at the process stage. Whereas, the actual language of current subsection (c) requires just two samples: one sample at the harvest stage and one sample at the process stage. We would like to point out this inconsistency to avoid confusion and recommend that the Department clarify its regulatory analysis to align with the language of the regulation.

Thank you for noting these points. Upon your review of this matter, we welcome an opportunity to discuss these comments with you at your earliest convenience.

Very truly yours,

/s/Theodore C. Flowers

Theodore C. Flowers

TCF/