



Regulatory Authorities and Medical Cannabis

Although the health department is the most common regulatory agency for medical cannabis, in some states, another authority may be preferable. In addition, in some cases it may be best to divide the regulatory role, such as by having one department regulate dispensing and another oversee the patient registry. Finally, in those states where adult-use cannabis is legalized, it often makes sense to harmonize the programs under a single regulatory authority.

Here are some considerations when selecting a regulatory agency:

- The regulatory authority should not be philosophically opposed to cannabis.
 - Law enforcement agencies and drug abuse agencies are not appropriate entities to regulate medical cannabis.
- The regulatory authority should be willing, ready, and able to carry out its duties.
 - If possible, the regulatory agency should already have responsibilities that would make it well suited to regulating medical cannabis establishments.
 - Appointing a separate board can slow down implementation and reduce accountability. Doing so is typically not in the best interests of patients.
 - If an agency has limited funding, it needs to at least be able to make available enough staff to work on regulations until funding from applicants comes in. It should be an agency that is capable of quickly implementing regulatory programs.

In addition, the regulatory authority should have the authority to add serious medical conditions without requiring legislative changes. This is the case in most states.

- If an agency is in charge, rather than a board, it is often advisable to include an advisory board that includes medical professionals who are knowledgeable about medical cannabis, patients or their loved ones, and similar experts. This board could make recommendations and hear input from the public. The topics the advisory board considers could include:
 - Recommending whether to add qualifying conditions;
 - Reporting on patient satisfaction; and
 - Recommending any changes to the program.

Who Regulates Medical Cannabis?

Departments of Health

- In 19 states, the health department regulates medical cannabis patients and businesses. In eight other states, the department regulates only the patient registries.
- Several of these states — such as Michigan, Minnesota, New Mexico, Oregon, Pennsylvania, South Dakota, and Utah — also have advisory boards, at least for adding conditions.

Virginia's Board of Pharmacy

- Virginia's Board of Pharmacy in the Department of Health Professions regulates medical cannabis. "Pharmaceutical processors" are in charge of producing and dispensing medical cannabis products. While a pharmacist must be in charge of each facility, the name is somewhat confusing since the cannabis oils cannot be sold in pharmacies.

Connecticut's Department of Consumer Protection

- Connecticut's Department of Consumer Protection regulates medical cannabis.

Colorado's Department of Revenue

- Colorado's Department of Revenue, which also regulates gaming and liquor, regulates medical (and adult use) cannabis businesses. However, the state's health department maintains the patient registry.

Michigan's Department of Licensing and Regulatory Affairs

- Michigan's program is overseen by the Marijuana Regulatory Authority, within the state's licensing and regulatory affairs department

Vermont's Department of Public Safety

- Vermont's Department of Public Safety currently regulates medical cannabis. The regulatory authority will be transferring to a new Cannabis Control Board on March 1, 2022 that will also regulate adult-use cannabis.

Multiple Agencies

- In Arkansas, a Medical Marijuana Commission and the Alcoholic Beverage Control Division regulate medical cannabis businesses. The health department maintains the patient registry.
- In Louisiana, the Board of Pharmacy regulates dispensaries (which are called pharmacies but are not DEA-licensed to dispense other controlled substances), the Board of Medical Examiners registers physicians who recommend and craft related rules, and the Department of Agriculture regulates cultivators.
- In Illinois, three agencies share regulatory authority. The Department of Agriculture regulates growers, the Department of Financial and Professional Licensing regulates dispensaries, and the Department of Public Health handles the patient registry.
- In California, the health department handles a voluntary patient registry and regulates labs and edibles. The Department of Food and Agriculture oversees cultivation, and the Bureau of Cannabis Control in the Department of Consumer Affairs regulates other businesses.
- In Ohio, the Department of Commerce oversees cultivators and testing labs, the Board of Pharmacy oversees the patient registry and dispensaries, and the State Medical Board oversees physicians.
- In Utah, the Department of Agriculture and Food oversees the licensing and regulation of cannabis production enterprises, testing laboratories, processors, and product packaging. The Department of Health manages the local dispensing "pharmacies," the patient, caregiver, and health provider registry, and other facets of the program. Along with the other two departments, the Department of Public Safety and the Department of Technology Services

collectively maintain an electronic tracking system to monitor all aspects of the program.

A Medical Cannabis-Specific Board or Commission

- In Maryland, a volunteer commission was appointed to oversee regulation. It operates in conjunction with a paid executive director. An unworkable, flawed law passed in 2013, and a workable one was signed into law in May 2014. Sales did not begin until late 2017, making it one of the slowest rollouts of a state medical marijuana program. It was initially beset by controversy and litigation.
 - In Arkansas, the Medical Marijuana Commission was the lead agency for licensing cultivation facilities. Implementation has been mired in litigation and allegations of impropriety.
 - In Alabama, an appointed 14-member Medical Cannabis Commission will be charged with implementation. In addition, the Department of Agriculture and Industries will play a significant role in regulating cultivation.
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Harmonizing Regulatory Authorities After Adult-Use Legalization

- In California, the state did not license or regulate medical cannabis businesses until it began licensing adult-use businesses in early 2018. The two laws were harmonized in 2017, and the same agencies regulate both medical and adult-use businesses.
- In Maine, lawmakers decided to shift the regulatory authority for medical cannabis businesses to the Department of Administrative and Financial Services after legalization.
- In Massachusetts, the regulatory authority for medical cannabis businesses will shift from the health department to the Cannabis Control Commission in late 2018.
- In Nevada, the regulatory authority for medical cannabis businesses shifted from the health department to the Department of Taxation, and then to a new Cannabis Compliance Board. The CCB consists of five board members appointed by the governor. There is also a 12-member advisory commission.
- Colorado's Marijuana Enforcement Division, within the Department of Revenue, regulates both medical cannabis and adult-use businesses.
- In both Washington and Alaska, the state never licensed medical cannabis businesses. Washington's adult-use businesses — which are regulated by the Liquor and Cannabis Board — may receive a medical endorsement. Alaska still does not have medical cannabis businesses.
- Oregon is the only adult-use state that has a separate entity regulating medical cannabis businesses several years after its adult-use law passed. Following the opening of adult-use businesses, hundreds of separately licensed dispensaries have closed or converted to adult-use. Only one remains operational.