



June 12, 2017

Public Comment on:

California's Bureau of Marijuana Control Proposed Text of Regulations

MPP Supports Proposed Regulations

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Bureau of Medical Cannabis Regulation:

A regulated medical marijuana program will serve the interests of Californians, and the Marijuana Policy Project (MPP) supports the vast majority of proposed rules. By way of this public comment period, MPP would like to offer advice on the few provisions that remain unresolved. Therefore, we urge the Bureau to amend its proposed rules as follows.

Relax reporting of criminal and civil convictions and judgments

Section 5060 states that any licensee who is convicted of a crime, received a civil penalty or judgment, or had their local license or permit revoked must notify the BMCR within 48 hours. While the intent to promote better business is obvious, please consider adding limiting language to protect sensitive, private and unrelated issues such as reporting a divorce settlement or a judgment in a family law dispute.

Furthermore, during the licensing process, California's new regulations have imposed some of the most severe licensing requirements for potential license holders compared to other states regulating medical marijuana. For retailers, distributors, transporters, and cultivators, owners must supply a detailed description of any convictions, excepting juvenile adjudications and traffic infractions, and depending on license type, owners may or must provide a statement of rehabilitation for each conviction.

While stringent reporting of prior convictions can help protect businesses from criticisms, it is important to maintain an open playing field in this budding industry. Using **any** prior conviction to bar an individual from obtaining a license could, arguably, be discriminatory. The ability to include a rehabilitation statement with a license is a helpful tool included within the draft regulations, but the submitted proof of rehabilitation could be further solidified by including additional parameters: like completion of probation and payment of all court ordered monies.

While violent offenses and crimes that reflect a lack of veracity, like fraud and embezzlement, would likely bar an individual from obtaining a license, **please amend**

the regulations so individuals with any other prior convictions would not be barred from obtaining a license on those convictions alone.

Develop packaging regulations

Medical cannabis, like any medication, should be properly packaged and labeled. Section 5184 states that packaging must be opaque, contain a state-designated THC warning symbol and be restrictive for young children.

Following a scheme similar to Colorado and Washington, adding additional packaging requirements could be beneficial for California's medical marijuana industry and patients. For example:

- labeling text on a container must be no smaller than 1/16 of an inch;
- stating "This product may be unlawful outside of California";

For marijuana-infused products, it would be beneficial to include:

- a list of all ingredients and major food allergens as defined in the Food Allergen Labeling and Consumer Protection Act of 2004;
- a statement noting "Caution: When eaten or swallowed, the intoxicating effects of this drug may be delayed by two or more hours."

While all products must be tamper evident and contain product weight and testing results, the regulations that describe packaging are not well defined. **MPP would recommend including critical information on marijuana package like ingredients, cautionary statements and visual warning symbols.**

Suggestions for regulations regarding testing

Section 5102 says samples must meet lab-testing specifications in "Chapter 5" and as you know, Chapter 5 has yet to be delineated. Cannabis testing, a scientific process assessing levels of compounds and chemicals present in the product, arms consumers with knowledge and keeps patients safe from unintended harmful substances and unwanted effects. Furthermore, testing allows manufacturers to measure the safety of their extraction process and adjust for better, cleaner results.

MPP believes that requiring non-affiliated, third party labs to test all batches of marijuana and marijuana products is a best practice. Further, Washington requires compliance with the methodology published by the *American Herbal Pharmacopoeia* for a testing lab to be considered certified with the goal of creating ubiquitous testing.

Further, testing must be cost effective for business so that legal products can be reasonably priced and so businesses will be able to effectively compete with an unsafe, illegal market.

When adding Chapter 5 to California’s medical marijuana regulations, MPP would recommend looking to the testing regulations from Washington.

Limitations on certain types of cannabis-infused products

Current regulations would not allow cannabis-infused alcohol, caffeine, or nicotine products and no cannabis product can be made of “potentially hazardous food.” Potentially hazardous food means any food “capable of supporting the growth of infectious or toxigenic microorganisms when held at temperatures above 41 degrees Fahrenheit.” Products that must be refrigerated at a temperature of less than 41 degrees and any dairy or meat products are also not allowed.

Meaning, in short, chocolate products could be disallowed. Chocolates are a popular type of cannabis-infused edible. Eliminating the black market and bringing in revenue for the state is a major factor in California’s decision to regulation the medical marijuana industry, but by banning a proven-popular type of edible the regulations could be limiting the potential influx of money from regulation.

In an effort to ensure patients have the ability to choose the best form of ingestion on an individual basis, **MPP recommends allowing patients, in consultation with trained dispensary staff, to decide for themselves which mode of administration is most appropriate for them.**

Summary

MPP supports the Bureau’s proposed rules and recommends the draft regulations consider the recommendations stated above, specifically to:

- Permit individuals with a criminal record to apply for a license and do not disqualify such individuals based solely on the results of a criminal background check;
- Develop packaging regulations that clearly define packaging and labeling as well as serving and transaction limits;
- Draft testing requirements that mandate a third-party testing facility follow well accepted, scientific testing practices regarding the testing of pesticides and solvents;
- Allow certain types of edibles that are restricted under the proposed regulations so that patients can access all types of marijuana to fit each patient’s individual needs for administration.