



Alison Butler
Division Chief, Policy Implementation
Maryland Cannabis Administration
849 International Drive
Linthicum, Maryland 21090
mca.policy@maryland.gov

Dear Ms. Butler,

The Legal Resource Center for Public Health Policy – Cannabis (“LRC-C”) is a public health organization housed at the University of Maryland School of Law. Our mission is to help Maryland’s public health community understand and respond to the challenges of cannabis legalization. To advance our mission, we provide free legal technical assistance, develop educational resources, conduct trainings, and advocate for cannabis policy that protects and promotes the health of Maryland’s communities.

To this end, the LRC-C has reviewed the proposed regulations published in the Maryland Register on December 27, 2024. We appreciate the opportunity to comment upon the provisions that impact the public health of the Maryland community, informed by our conversations with local health departments and health planning coalitions. Many of the proposed regulations will have a positive effect on public health and the ability of the MCA to safely and effectively regulate the cannabis industry. One proposed regulation, involving the provision of product information on cannabis product labels, raises significant public health concerns about the prominence and accessibility of important information.

Our comments are as follows:

14.17.04.09: Medical Product Availability

Comment: The LRC-C supports the proposed addition of this regulation.

Rationale: Since the legalization of adult-use cannabis, it has been critical to ensure that medical cannabis patients retain access to the medicine they need. Creating a process for the MCA to gather information on medical product availability and address any shortfalls ensures that the needs of medical cannabis patients are not being overshadowed by the adult-use market.

14.17.12.04: Dispensary Operations

Comment: The LRC-C supports the proposed addition to this regulation.

Rationale: Cannabis product labels contain essential information about the health risks, potency, and ingredients of cannabis products, which are important details for a potential consumer. Because the MCA's current labeling requirements allow the use of size 6 font, it is important that an easily-readable version of the product labeling information, including product warnings, ingredients, and cannabinoid composition, be available for those who need it. Although the LRC-C has concerns about the other proposed changes to the MCA's labeling requirements (see comment on proposed regulation 14.17.18.03, below), we believe that a requirement to make available an easily-readable version is critical to ensure customers are informed and safe.

14.17.14.06 Advertising

Comment: The LRC-C supports the proposed amendment to this regulation.

Rationale: Applying the MCA's cannabis advertising restrictions to certifying providers ensures that any advertisements for cannabis certification services comply with the same critical advertising standards as the rest of the cannabis industry. These advertising restrictions are critical public health tools because they limit exposure of cannabis advertisements to individuals under the age of 21, who can be particularly impacted by cannabis advertisements.¹ They also require that claims of health benefits from cannabis products be supported by reliable scientific research.

14.17.15.05: Training

Comment: The LRC-C supports the proposed amendment to this regulation.

Rationale: This amendment would require registered agents to complete a responsible vendor training program on an annual basis, rather than just once. This will ensure that information about age verification and other legal mandates governing the sale of cannabis that are important to public health are front of mind for cannabis business employees, and less likely to be forgotten or neglected.

14.17.18.03: General Labeling Requirement

Comment: Remove allergy and ingredient information from the list of information allowed to be provided through a QR code or printed weblink.

¹ Pamela J. Trangenstein et al., *Cannabis Marketing and Problematic Cannabis Use Among Adolescents*, 82 J. STUD. ON ALCOHOL & DRUGS 288, 291-292 (2021), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8864622/>.

Rationale: This proposed regulation provides that certain information may be printed on an inner layer of a label of finished cannabis product packaging or made available through a link or QR code. This information includes an itemization of all cannabinoid and terpene ingredients specified for the product, a list of all major allergens, specifically milk, eggs, fish, crustacean shellfish, tree nuts, peanuts, wheat, and soybeans, and a list of all non-cannabis ingredients.

Allowing allergen and ingredient information to be provided through a QR code or weblink is not in compliance with best practices. The Food and Drug Administration has advised that allergen information for food products cannot be provided by QR codes.² Furthermore, the Food, Drug, and Cosmetics Act provides that a food is misbranded if any word, statement, or other information required to appear on the label by the FDA, such as allergen and ingredient information, is not prominently placed on the label. The prominence of the required information depends on its comparison to other words and statements on the label.³

Additionally, QR codes are not a reliable way to ensure consumers access critical allergen and ingredient information. The scan through rate for QR codes is low. Though some studies have found a 50% scan through rate for QR codes in marketing, studies have found that consumers scan QR codes on packaging only 30% of the time.⁴

In light of these concerns, the LRC-C opposes an alteration to existing labeling requirements that would allow this essential information to be removed from physical packaging and made accessible through a link or a QR code.

14.17.22.09 Hearings

Comment: The LRC-C supports the proposed amendments to this regulation, particularly proposed subsection (E)(4) regarding the burden of proof in hearings on advertising violations.

Rationale: This section clarifies that, in a hearing concerning an alleged violation of Maryland's cannabis advertising statutes, the party that is accused of having violated the advertising law has the burden of demonstrating that the expected audience composition of the advertisement met the requirements of state law. This is consistent with the statutory language in Alc. Bev. & Cann. § 36-903 and provides clarity to parties considering production of a cannabis advertisement regarding their legal responsibility to document expected audience composition.

² The U.S. Food and Drug Administration, *Webinar on Allergen Labeling for Retail Food Stores and Food Service Establishments*, Webinar on Allergen Labeling for Retail Food Stores and Food Service Establishments, YouTube (Dec. 18, 2024), <https://youtu.be/P73r-QMMtdY> (timestamp 03:29-03:34).

³ 21 U.S.C. § 343(f).

⁴ Monika Adarsh, *How to Optimize QR Code Campaigns? (Examples & Formulas Inside)*, Uniqode (Dec. 30, 2024), <https://www.uniqode.com/blog/qr-code-marketing-tips/qr-code-campaigns-high-conversion>.

Again, the Legal Resource Center for Public Health Policy-Cannabis appreciates the opportunity to provide comments to the proposed regulations. Should you wish to discuss our recommendations or require additional information, please contact us.

Sincerely,

Mathew Swinburne, J.D.

(he/him/his)

Director, Legal Resource Center for Public Health Policy-Cannabis

The University of Maryland Francis King Carey School of Law

500 West Baltimore St., Baltimore, MD 21201

410-706-4532

mswinburne@law.umaryland.edu

Annie Carver, J.D.

(she, her, hers)

Staff Attorney, Legal Resource Center for Public Health Policy-Cannabis

The University of Maryland Francis King Carey School of Law

500 West Baltimore St., Baltimore, MD 21201

410-706-4221

a.carver@law.umaryland.edu

George Townsend, J.D.

(he/him/his)

Staff Attorney, Legal Resource Center for Public Health Policy-Cannabis

The University of Maryland Francis King Carey School of Law

500 West Baltimore St., Baltimore, MD 21201

410-706-8189

gtownsend@law.umaryland.edu