UNIVERSITY *of* MARYLAND
FRANCIS KING CAREY
SCHOOL OF LAW
LEGAL RESOURCE CENTER
FOR PUBLIC HEALTH POLICY

June 3, 2024

Mr. Andrew Garrison
Chief of the Office of Policy & Government Affairs
Maryland Cannabis Administration
849 International Drive
Linthicum, MD 21090

Dear Mr. Garrison,

The Legal Resource Center for Public Health Policy – Cannabis 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.

The Legal Resource Center appreciates the opportunity to provide comments on the proposed regulations. We are currently engaged in a cannabis community needs assessment that has helped shape our input. For this needs assessment, we have connected with each of the local health departments in Maryland to determine their concerns with cannabis legalization, the issues they are currently experiencing, and the support they need to address these issues.

The proposed regulations create policies with important public health implications. While they contain many positive provisions, there are several areas that can be enhanced to better protect public health. Below, we address our concerns regarding the personal use amount, the Compassionate Use Fund, the clinical director requirements, and key labeling provisions.

14.17.01: Revise the definition of personal use amount with regards to cannabis products.

<u>Comment:</u> The personal use limit on cannabis products should be restricted to 750 milligrams of Tetrahydrocannabinol (THC) rather than 750 milligrams of Delta-9 THC.

<u>Rational:</u> The personal use amount is the quantity of cannabis an adult may legally possess, unless they are a medical cannabis patient. It is also the most a dispensary can sell to an individual in one day. Under this key provision, the restrictions for cannabis flower and concentrated cannabis products are based on the total weight of the product, 1.5 ounces and 12 grams respectively. Conversely, *cannabis products* are limited based on the amount (750-milligram) of an intoxicating cannabinoid, Delta-9 THC, rather than total product weight. Cannabis products cover a broad range of products including tinctures, cannabis edibles, capsules, and topicals.

Limiting the cannabis product restriction to Delta-9 THC tracks with statutory language. However, this approach undercuts the purpose of the personal use amount which is to limit the amount of intoxicating cannabis products an individual can purchase and possess. The proposed restrictions leave out intoxicating THC isomers like Delta-8 and Delta-10. As a result, a dispensary could sell an individual an unlimited amount of cannabis products containing these intoxicating compounds. Currently, there is not a large demand at dispensaries for these isomers, but this may change in future.

To rectify this issue, the 750-milligram restriction should be changed from Delta-9 THC to simply THC. The proposed regulations, 14.17.01(53), define THC as including Delta-8 THC, Delta-10 THC, and other intoxicating cannabinoids and substances identified by the Maryland Cannabis Administration ("MCA"). This change would prevent dispensaries and individuals from subverting the personal use amount if there is market shift toward isomers like Delta-8 and Delta-10.

14.17.04.06 and .09: Expand coverage of the Compassionate Use Fund.

Comment: Establish a medical cannabis discount and reimbursement through the Compassionate Use Fund.

Rationale: Cannabis is still illegal under federal law, and this creates a critical equity issue for medical cannabis systems. Because of its federal status, no insurance company covers medical cannabis products. This creates a financial barrier which limits the medical benefits of the regulated cannabis system to those with sufficient income.

Recognizing this inequity, Maryland created the Medical Cannabis Compassionate Use Fund ("Compassionate Use Fund"). The purpose of the Compassionate Use Fund is to reduce the cost of (1) a medical assessment to determine the appropriateness of treatment with medical cannabis and (2) medical cannabis for individuals enrolled in the Maryland Medical Assistance Program (MMAP) or in the Veteran Affairs (VA) Maryland Health Care System. *See* Md. Code Ann. 36-601(d).

Under the proposed regulations, a provider must offer a $50 discount on their certification fee to eligible patients. While a provider may offer a larger discount, the MCA will only reimburse up to $50. Additionally, medical cannabis sold to qualifying patients or registered caregivers is not subject to the sales and use tax assessment. This reduces the cost of medical cannabis for qualifying patients by nine percent. While this tax exemption helps reduce the cost of medical cannabis for all qualifying patients, it does not specifically reduce the cost for individuals enrolled in the MMAP or the VA Maryland Health Care System.

To further address the issue of equitable access, we urge the MCA to prioritize the matter of a medical cannabis discount. While a system must be developed to verify patient eligibility for the discount and adequate funds must be available to provide the discount, these issues should not obstruct the important goal of equitable patient access to medical cannabis.

14.17.04.08: Preserve the clinical director requirement for standard dispensaries.

Comment: Remove the exemption from the clinical director requirement for standard dispensaries in their first two years of operation and evaluate state run alternatives to the dispensary focused clinical director model.

Rational: Currently, every standard dispensary is required to have a clinical director. Clinical directors are licensed healthcare professionals with substantial education, training, and experience in the medical use of cannabis. They serve two key educational functions. First, they must be available during a dispensary's hours of operation to educate medical cannabis patients and their caregivers on:

1. Treatment of their qualifying medical condition with cannabis,
2. Potential drug-to-drug interactions,
3. Possible side effects and contraindications,
4. The potential for varying strengths and effects of cannabis strains, and
5. Different methods, forms, and routes of medical cannabis administration.

Second, the clinical director must train dispensary agents to (1) provide information related to the risks, benefits, and side effects of medical cannabis use; (2) recognize signs and symptoms of substance abuse; and (3) refuse medical cannabis to a patient who appears to be under the influence. These functions promote the safety and effectiveness of Maryland's medical cannabis system. By exempting standard dispensaries from the clinical director requirement for their first two years of operation, the proposed regulations deprive medical cannabis patients of an important educational resource.

The proposed clinical director exemption is a clear cost-savings for newly licensed social equity dispensaries to help them integrate into Maryland's cannabis market. While quick and effective integration is critical to the state's social equity goals, it should not come at the expense of safety. Rather than exempting new dispensaries, there is another policy option that provides access to clinical directors and shifts the financial burden of securing these services away from new social equity businesses.

Currently, many dispensaries secure clinical director services from private consulting services, which function like a call center. Rather than rely on potentially costly private consulting services, the Maryland Cannabis Administration could create a state-run call center for clinical director services that is available to all dispensaries. This approach shifts the financial burden and provides the State with greater control over the quality of clinical director services.

14.17.18.03(B)(2): Increase the font size for cannabis labels.

Comment: Increase the required font size for cannabis labels from size 6 font to size 8 font.

Rational**:** Product labeling is a critical public health tool for consumer education and safety. Product labels help consumers make informed decisions and help prevent accidental ingestion. Cannabis product labels contain a board spectrum of information including cannabinoid content, allergens, and important health warnings. The effectiveness of Maryland's labeling requirements is dependent on them being legible. In our community meetings and our community needs assessment, we have received feedback that the labels are difficult for people to read. To address this issue the minimum font size should be increased from 6 to 8.

We are aware that several states utilize size 6 font for their cannabis labels. However, that does not justify limiting the effectiveness of this important public health tool. Nevada requires size 8 font and Connecticut requires the equivalent of size 7 font (1/10 of an inch based on a capital letter K). Nev. Admin. Code § 453D.800; Conn. Gen. Stat. § 21a-421j-3. To improve the effectiveness of cannabis labels, Maryland should follow the precedent set by Nevada and adopt a size 8 font requirement.

14.17.18.03(C)(1)(c): Revise the warning statement regarding cannabis use while pregnant or breastfeeding.

Comment: Strengthen the warning for people who are pregnant or breastfeeding by clarifying that there are health risks for both the parent and child.

Rationale: Our community needs assessment reveals that the impact of cannabis use on pregnant and breastfeeding individuals is a major concern for our local health departments. Ninety percent of respondents indicate that they are "very concerned" about this issue. Under the proposed regulations, all retail cannabis products must include the warning that "there may be health risks associated with cannabis use, especially if pregnant or breastfeeding." As written, this warning focuses solely on the health risks to the pregnant or breastfeeding person and does not make it clear that there can be negative health impacts for the child. Studies show that cannabis use during pregnancy and breastfeeding can affect a child's neurodevelopment, such as "withdrawal-like" symptoms in newborns, aggressive behavior and attention deficits as a toddler, and increased chance of depression and anxiety in adolescence. *See* Sophia Badowski & Graeme Smith, *Cannabis use during pregnancy and postpartum,* Canadian Family Physician, 66(2):98-103 (February 2022).

Furthermore, our community needs assessments and interviews with local health departments revealed a misconception regarding the risks posed to the child by cannabis use during pregnancy and breastfeeding. As a result, it is critical that the warning make it clear that there are risks for both the pregnant person and the child.

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 need additional information, please contact us.

Sincerely,

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(he/him/his)
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