

**Notice of Decision to Take Action
On Proposed Regulation**

Re: Regulation Concerning the Palliative Use of Marijuana, PR2024-050

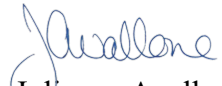
The Department of Consumer Protection opened a public comment period from November 25, 2024 through January 10, 2025 to solicit public input regarding proposed changes to an existing administrative regulation concerning the palliative use of marijuana.

The purpose of the proposed changes to the existing regulation is to comport the existing palliative use of marijuana regulations with the newer adult-use cannabis regulations, to the extent they overlap. Both sets of regulations cover many of the same subject matter areas, and therefore these proposed changes remove redundant and inconsistent provisions, while streamlining the subject matter covered by these regulations to only those provisions that apply exclusively to the palliative use of marijuana. Additionally, due to the numerous updates in laws impacting cannabis over the past four years, this regulation also incorporates statutory changes.

The document attached summarizes the comments received and the Department's intended revisions of the proposed regulations in response.

The regulations, as modified based on the comments received, will be published on the website of the Secretary of the State. The Department will continue the process by forwarding these regulations to the Office of the Attorney General for review. Thank you for your interest in this proposed regulation and the work of the Department of Consumer Protection.

Very truly yours,


Julianne Avallone
Legal Director

Dated: February 20, 2025

Proposed Amendments to Regulation Concerning Palliative Use of Marijuana
Summary of Public Comments and DCP Response
February 21, 2025

The Department of Consumer Protection (“Department”) received several comments from individuals Lou Rinaldi, and Denace Boyington, as well as the following entities: VetFuel, Inc., Higher Health LLC, Doctors for Drug Policy Reform, CT CannaWarriors, Vicente LLP, EZMEDCARD LLC, and Better Ways LLC.

On-Site Pharmacist Requirement

One commentor disliked that a licensed pharmacist is required to be present when operating a facility that sells medical marijuana to patients. The DCP does not support eliminating pharmacists at medical marijuana facilities that dispense medicine to patients. This would harm patients by diminishing their access to professional medical care. The on-site pharmacist is the most effective way for a patient to have a medical advisor who is well versed in medical marijuana benefits, product types, and application.

Further, due to federal illegality, patients and health advocates across the nation have expressed concern about the adequacy and access to care. Certifying physicians typically do not provide dosage and product recommendations to medical marijuana patients, often due to lack of knowledge of the variety of products and their unique effects. A dispensary pharmacist offers accessible patient support on an ongoing basis. An individual is less likely to seek advice of a pharmacist if they are not physically present.

Telehealth lends itself to the use of inconsistent and non-local pharmacists who may not be familiar with the patient or products. In an industry where stigma remains, trust and familiarity are important for patients.

Entities Eligible for Licensure

One commentor expressed a desire for non-profits to be able to engage in the cannabis industry. There is no prohibition on non-profit entities obtaining a cannabis license. Non-profits are eligible for licensure as is any other business entity designation.

Medical Marijuana Staff Training, and Character and Fitness Requirements

Some commentors proposed a requirement for medical marijuana program staff to be better trained and knowledgeable, with one commentor suggesting a character and fitness requirement for cannabis applicants. Requirements of all cannabis establishment employees, including training requirements for staff in the medical marijuana program, are all addressed in the Department’s Adult-use Cannabis Policies and Procedures, mainly in section 21a-421j-11. Of note, these proposed regulations include additional training requirements that cannabis establishments must provide to employees who work within the medical marijuana program. Background and criminal history checks that address the character and fitness of cannabis applicants deemed relevant by the legislature are covered by general statutes sections 21a-421a, 21a-421b, 21a-421c, and 21a-420g.

Universal Symbol

One commentor proposed an alternative universal symbol design. The commentor did not provide any research, data, or focus group related studies about the effectiveness of the proposed symbol. It was also not clear if the proposed alternative symbol was proprietary in nature and would have fiscal implications on the state or other liabilities for its use. While a few states and ASTM appear to have adopted the symbol, it has not been adopted consistently by state cannabis regulators in such way that would be indicative of standardization amongst cannabis regulators. Further, fellow New England states such as Massachusetts and Maine have adopted the same universal symbol for cannabis as Connecticut, lending to a greater efficacy of the currently adopted universal symbol.

Production Facility Indoor Requirement

One commentor proposed that the term “Production facility” not be limited to indoors. The defined term “production facility” applies only to producers that exclusively grow medical marijuana. Currently, such producers exist in the State. If a new medical only producer were to become licensed in the state, DCP recommends the medical producer maintain a clean and controlled cultivation environment, which an indoor facility provides. Outdoor cultivation is already permitted under other available license types, e.g. cultivator and micro-cultivator.

Additional Locations Under Once License

One commentor proposed that an outdoor cultivation license should entitle the licensee to more than one location. The proposed regulation is consistent across all cannabis establishment license types that one license entitles the licensee to one location. The legislature created a legal cannabis market in Connecticut with a limited licensing structure. To allow for the creation of an undetermined number of facilities under one license would defeat the legislature’s intended structure and therefore require a statutory change.

Temporary Registration Cards

One commentor proposed temporary medical marijuana patient registration cards for immediate use once an application for certification is submitted, despite citing a turnaround time for registration cards of one and three days. During that brief period, a potential qualified patient may purchase cannabis, although not eligible for certain high potency or medical forms of cannabis. Creating a temporary certification process would be a significant operational burden on the Department, and there would be an expense involved in the duplicative approval processing that temporary registration cards would require. The Department does not have the resources to create a temporary certification process at this time.

Procedure for Adding Debilitating Conditions

One commentor expressed a desire for certifying physicians to be able to certify a qualifying patient for any condition deemed suitable by that physician. The proposed regulation simplifies the process for adding a condition to the list of debilitating conditions, encouraging the public and certifying physicians to contact the Board of Pharmacy with recommended conditions to review and recommend to the Department.

Remediation

One commentor intimated that allowing remediation of cannabis encourages poor cultivation and manufacturing practices. In consultation with experts in this area, the Department has learned that the reliability and effectiveness of remediation varies widely based on the method used. Accordingly, the Department's proposed language allows for remediation to occur only pursuant to a processing plan approved by the commissioner. This ensures remediated cannabis does not pose any known health-risk to qualifying patients and consumers.

Pistol Permits

One commentor sought clarification about whether people may concurrently possess a pistol permit and be registered as a qualifying patient for medical marijuana. Nothing in the proposed regulations addresses a pistol permit as grounds for exclusion as a qualifying patient registered with the medical marijuana program. Questions regarding eligibility for a pistol permit should be directed to the Department of Emergency Services and Public Protection.

Total Yeast and Mold Standard

Some commentors expressed opposition to the 10^5 cfu/g standard, which has a prohibition on the presence of the *Aspergillus* species, proposed for the total yeast and mold count (the "TC Standard") as confirmed by existing testing methods (the "TC Testing"). The Department has reviewed the TC Standard with several professional microbiologists and other laboratories both inside and outside of Connecticut. The Department also consulted with regulators in other states. Additionally, the Department reviewed existing testing requirements of other states and did a comprehensive comparative approach.

The consensus of the experts and the result of the comparative analysis was that the TC Standard is appropriate and safe in the context of the rest of Connecticut's medical marijuana testing requirements, namely the inclusion of requirements pertaining to *Aspergillus*. A general limit of 10^4 cfu/g would only concern the presence of microbes without delineating specific types, some of which are harmless or beneficial, while others, including the *Aspergillus* species, are proven harmful. This regulatory change was subsequently adopted through the regulatory approval process. Accordingly, the Department is retaining the TC Standard as previously adopted.

Other Comments Requiring Statutory Changes

Numerous commentors expressed dismay over the lack of medical marijuana product variety available to patients since the advent of the adult-use market. The DCP is not authorized by statute to take measures to ensure specific product manufacturing or availability. As the program continues to grow and expand, additional growing and retailing establishments will come online and may address these concerns.

One commentor would like to remove the requirement that qualifying patients lose their qualifying status once they are no longer a resident in Connecticut, as it inadvertently but adversely impacts the homeless. General statutes section 21a-408(20) includes Connecticut residency in the

definition of a qualifying patient; the Department does not have authority to remove this statutory requirement.

One commentor proposed outdoor cultivator for home growers, which would require a statutory change, as well as additional cannabis testing laboratories for home grown cannabis, which is a function of the market rather than the Department.