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To: Current and Prospective Medical and Adult Use Cannabis Program Participants
From: Director John Hudak, Office of Cannabis Policy
Date: May 14, 2024
Subject: Overview of Enacted Cannabis-related Legislation – Second Regular Session of the 131st Legislature and Timelines for Implementation of Affected Policies and Rules

Background

This guidance is provided by the Office of Cannabis Policy (OCP) to make Maine Medical Use of Cannabis Program (MMCP) registrants and Adult Use Cannabis Program (AUCP) licensees aware of recent changes to the laws governing those programs as a result of the second regular session of the 131st Legislature. **Unless otherwise indicated, nonemergency laws enacted during the second regular session of the 131st Legislature are effective August 9, 2024.** Please note that several provisions of the recently enacted laws described below will require integration into the rules governing the Adult Use Cannabis Program before those provisions will be implemented.

This guidance is not intended to be a comprehensive summary of all legislative changes affecting the programs administered by OCP. Rather, it is being provided as a courtesy, should not be construed as legal advice, and should not be viewed as a substitute for program registrants and licensees consulting with qualified business consultant(s) and/or attorney(s) about the application of the requirements of the *Maine Medical Use of Cannabis Act* and/or the *Cannabis Legalization Act* to their unique situation.

Changes to the Laws Governing Maine's Regulated Cannabis Programs

The following laws were enacted during the second regular session of the 131st Legislature. Unless otherwise indicated, the effective date for these laws is August 9, 2024.

An Act to Protect Liberty and Advance Justice in the Administration and Enforcement of the Cannabis Legalization Act and the Maine Medical Use of Cannabis Act – [P.L. 2023, ch. 679 \(L.D. 40\)](#)

- This law makes changes to the laws governing the medical and adult use cannabis programs administered by OCP (see below for changes by program), authorizes OCP to finally adopt the provisionally adopted rules governing the Adult Use Cannabis Program later this year (see below for additional information regarding rulemaking for the adult use program), and establishes a task force to review cannabis hospitality establishments.

P.L. 2023, ch. 679 (L.D. 40) – Changes Affecting the Medical Cannabis Program

- Prohibits OCP from requiring designated parking spaces in order to issue or reissue a registration certificate for a dispensary;
- Permits the use of patient testimonials regarding the palliative or therapeutic effect of medical cannabis on the patients’ medical condition(s) and requires such statements to be accompanied by the disclaimer, “This statement has not been evaluated by the United States Food and Drug Administration. This product is not intended to diagnose, treat, cure or prevent any disease.”;
- Excludes from the collective prohibition members of the same household or family who assist one another with their authorized activities;
- Creates a process for one caregiver to temporarily assist another caregiver (for up to 90 days) without being considered a collective and allows for the extension of such assistance with approval from OCP;
- Updates and provides specific examples of “major violations affecting public safety”, “major violations”, and “minor violations”; and
- Establishes a system of progressive enforcement that includes technical assistance, fines, registration suspension or revocation and seizure and destruction of cannabis or cannabis products.

P.L. 2023, ch. 679 (L.D. 40) – Changes Affecting the Adult Use Cannabis Program

- Explicitly permits licensees to use third party software to connect with the inventory tracking system so long as such software can transmit all required data to the inventory tracking system;
- Creates a definition of “principal” and makes criminal history record checks mandatory for such individuals once every two years (while eliminating criminal history record checks for other individual identification cardholders), and limits tax compliance and license compliance inquiries to principals as well;
- Notice to OCP of transfers of ownership limited to transfers resulting in a new or existing owner obtaining an ownership interest in a license of at least 5%, instead allowing for notice of such transfers of ownership upon renewal of the license;
- Strikes the requirement that co-located adult use cannabis licensees be separated by a single, lockable door—licensees removing a single, lockable door from their licensed premises are reminded to submit an updated plan of record to OCP;
- Explicitly permits the co-location of medical and adult use cannabis businesses so long as there is common, but not necessarily identical, ownership of the medical and adult use cannabis businesses;
- Defines “visually conspicuous delineation” of co-located medical and adult use cannabis cultivation areas as “a permanently constructed physical barrier including, but not limited to, a wall or fencing”;
- Permits the gifting of seedlings (up to 12) and seeds (up to 2.5 oz.) to a cultivation facility licensee by any individual who is at least 21 years of age and a resident of the State not more than once every 90 days (per person gifting);

- Permits a products manufacturing facility to use the portion of the licensed premises that is licensed as a food establishment by the Department of Agriculture, Conservation and Forestry for the production of foods that do not contain cannabis, except that such licensed premises may not be used to manufacture edible cannabis products that only contain hemp—licensees are prohibited from engaging in this new authorized activity until OCP has integrated the facility and compliance requirements for this new authorized activity into the rules governing the Adult Use Cannabis Program and any affected licensee submits to OCP an updated plan of record that reflects the use of the facility’s manufacturing equipment to manufacture non-cannabis foods;
- Expands the definition of “visitor” to include any individual who is not a minor and permits such visitors to enter and remain in the limited access areas of a cannabis establishment—licensees are advised that such a change to a licensee’s visitor policy will require an update to the licensee’s facility plan of record;
- Permits licensees to request retesting for potency a portion of the remaining representative sample originally submitted by the licensee to a cannabis testing facility;
- Permits cannabis store licensees to give to consumers samples of cannabis flower, edible cannabis products, or vape cartridges—licensees are prohibited from offering such consumer samples until OCP has integrated the testing, tracking, packaging, and labeling requirements for this new authorized activity into the rules governing the Adult Use Cannabis Program;
- Permits the entry of individuals under 21 years of age (minors) into the licensed premises of a cannabis store with a parent or guardian (with purchaser ID checks occurring at the point of sale rather than before entry to the store) and permits individual identification cardholders to bring their minor children into the licensed premises of any other cannabis establishment in an emergency—cannabis store licensees choosing to move purchaser ID checks from the entrance of the store to the point of sale are advised that an update to the store’s facility plan of record is required prior to changing the layout of the licensed premises of the cannabis store;
- Permits the resale or transfer of cannabis or cannabis products that have been returned to one licensee by another provided such returned items remain in sealed, tamper-evident packaging (products returned to a licensee by a consumer may not be resold or offered as consumer samples);
- Eliminates the requirement that cannabis and cannabis product packaging be opaque;
- Creates a voluntary process of review by OCP of licensees’ packaging, labeling, advertising, or marketing materials to determine whether such items are in compliance with program requirements;
- Updates and provides specific examples of “major violations affecting public safety”, “major violations”, and “minor violations”;
- Establishes a system of progressive enforcement that includes technical assistance, fines, license suspension or revocation and seizure and destruction of cannabis or cannabis products; and

- Clarifies the circumstances under which OCP may apply an administrative hold to a licensee’s inventory and specifies the conduct required, permitted, and prohibited during the pendency of an administrative hold.

P.L. 2023, ch. 679 (L.D. 40) – Changes Affecting Both the Medical and Adult Use Programs

- “Definitions” sections of the *Maine Medical Use of Cannabis Act* and the *Cannabis Legalization Act* updated and alphabetized;
- Employees and assistants will no longer be subject to criminal history records checks as a requirement for issuance of an individual or registry identification card;
 - OCP will implement this change effective **May 15, 2024**;
- Registry identification cards (except caregiver registry identification cards) and individual identification cards will be issued every two years;
 - OCP will begin issuing registry identification cards that are valid for two years to medical program participants beginning **July 1, 2024**;
 - OCP will begin issuing individual identification cards that are valid for two years to adult use program participants beginning **July 1, 2025**;
 - Caregiver registry identification cards, registration certificates, and adult use establishment licenses will continue to require renewal every year, but registered caregivers, registrant officers and directors, and adult use principals of a licensee will only need to submit to a criminal history record check once every other year;
- Establishes a process for the appointment of a temporary appointee to take possession of, operate, manage, control, or wind down the operations of a registrant or licensee;
- Allows for the transfer of a suspended registration or license with authorization by OCP; and
- Provides for notice by OCP to program participants within five days when OCP identifies a violation of the program requirements by the program participant or their agents.

***An Act to Establish the Social Equity Program* – [P.L. 2023, ch. 683 \(L.D. 1517\)](#)**

- Establishes a social equity program at the Department of Economic and Community Development (DECD) to increase workforce development programs and provide support to members of impacted communities, which are defined as “a racial, ethnic or tribal population that has experienced incarceration at rates disproportionate to the racial, ethnic or tribal population's rate of criminality starting in or about the year 1971 and as a result the racial, ethnic or tribal population has experienced direct or indirect discrimination in access to housing, employment and education”;
 - It also establishes a Social Equity Program Advisory Committee comprised of members of impacted communities to advise DECD on the social equity program;
 - DECD is directed to increase access by impacted communities to business support services by engaging in outreach to impacted communities, providing technical assistance and funds to impacted communities, and providing education and counseling to members of impacted communities regarding available tax credits;

- Establishes an apprenticeship navigator program at the Department of Labor to improve access to workforce development programs, including pre-apprenticeship and apprenticeship programs, by members of impacted communities; and
- Establishes the position of “cannabis business advocate” within the Department of Administrative and Financial Services to assist current and prospective program participants with navigating the cannabis business regulatory system administered by OCP as well as identifying challenges presented by OCP, resolving complaints from program participants regarding OCP, and proposing administrative solutions to ongoing challenges faced by program participants.

An Act to Change the Requirement for Edible Cannabis Products to Be Stamped or Embossed on Each Serving with a Universal Symbol – [P.L. 2023, ch. 641, Emergency \(Law without signature, April 21, 2024\) \(L.D. 2147\)](#)

- Adds cannabis gummies to the list of edible cannabis products deemed “per se impracticable” to stamp, emboss, or otherwise mark with the universal symbol; and
- Allows for the universal symbol to be marked on individual servings using a wrapper or blister pack rather than affixing the symbol directly to the edible cannabis product.
- OCP previously issued [guidance](#) regarding the implementation of this emergency legislation.

An Act to Implement the Recommendations of the Right to Know Advisory Committee Regarding Public Records Exceptions – [P.L. 2023, ch. 637 \(L.D. 2215\)](#)

- Repeals the existing confidentiality provisions of the *Maine Medical Use of Cannabis Act* included in 22 MRS § 2425-A(12) and replaces those provisions with new confidentiality restrictions;
- Makes confidential any information that identifies a qualifying patient, visiting qualifying patient, or a registered patient and allows for disclosure of such information only pursuant to the written consent of the patient or in response to a court order or subpoena;
- Makes confidential any information that identifies a caregiver exempt from registration and allows for disclosure of such information only pursuant to the written consent of the caregiver exempt from registration, in response to a court order or subpoena, or in the event notice to the public is required to prevent or mitigate a threat to public health or safety;
- Makes confidential the personal contact information of a registered caregiver but makes public all other information regarding a registered caregiver, excluding the home address of a caregiver, except that:
 - OCP may disclose the home address of a registered caregiver to state, county, or municipal employees responsible for administration of the *Maine Medical Use of Cannabis Act* (although such information remains confidential when transmitted to those employees and may not be disclosed by those government entities except in limited circumstances); or
 - In the event notice to the public is required to prevent or mitigate a threat to public health or safety because affected cannabis or cannabis products are

cultivated, manufactured, tested, packaged, stored, or sold by the registered caregiver at the location where the caregiver's residence is located;

- Makes confidential the personal contact information of a registry identification cardholder who is an assistant, officer, or director of a registrant and allows for disclosure of such information only pursuant to the written consent of the cardholder or in response to a court order or subpoena;
 - OCP will be adding a consent form that allows registrants to authorize any other individual(s) that they would like OCP to be able to discuss their information with, including confidential information, to help facilitate their application processing (such as a family member, attorney, office manager, etc.); and
- Makes public the final written decision of the department imposing an administrative penalty, ordering forfeiture and destruction of cannabis plants, cannabis or cannabis products, or suspension or revocation of a registry identification card or registration certificate.

Adoption of the Rules Governing the Adult Use Cannabis Program

In addition to the statutory changes detailed above, the 131st Legislature also authorized the final adoption of the major substantive rules governing the Adult Use Cannabis Program, specifically the *Rules for the Administration of the Adult Use Cannabis Program*, 18-691 CMR, ch. 10, *Rules for the Licensure of Adult Use Cannabis Establishments*, 18-691 CMR, ch. 20, and the *Compliance Rules for Adult Use Cannabis Establishments*, 18-691 CMR, ch. 30. OCP finally adopted the routine technical *Rules for the Testing of Adult Use Cannabis*, 18-691 CMR, ch. 40 last fall, but is delaying the effective date of those rules until chapters 10, 20, and 30 are finally adopted.

As authorized in Part E of P.L. 2023, ch. 679 (L.D. 40), OCP plans to finally adopt the rules governing the Adult Use Cannabis Program within 60 days of the effective date of the law in accordance with the requirements of 5 MRS § 8072(8). Those major substantive rules will become effective 30 days after final adoption. In the interim, until those rules are finally adopted and go into effect, the *Adult Use Cannabis Program Rule*, 18-691 CMR, ch. 1, shall remain in effect and shall be enforced to the extent that it does not conflict with Title 28-B, ch. 1. OCP has been directed to update the rules governing the Adult Use Cannabis Program to reflect legislative changes made during this past session. To that end, OCP will delay the implementation of consumer samples and the use of products manufacturing facilities for the manufacture of non-cannabis foods until those new authorized activities can be addressed in the rules pending adoption.

Furthermore, it is important to note that until those new major substantive rules are in effect, cannabis store licensees will not be permitted to conduct sales of cannabis or cannabis products at a specified event nor will tier 1, tier 2, and nursery cultivation facilities, nor products manufacturing facilities, be permitted to conduct sales to consumers via delivery. OCP has previously provided [guidance](#) regarding the implementation of these changes as well as others enacted during the first regular and special sessions of the 131st Legislature, and that guidance remains in effect. The Office will continue to provide information and guidance to program

participants regarding the implementation of these rules and all the statutory changes incorporated therein as the effective date of each approaches.

Conclusion

The information above is not a comprehensive summary of all recent legislative changes affecting cannabis program participants and is intended to give program participants an understanding of changes that will impact the registration, licensing, and compliance requirements of the programs administered by the Office of Cannabis Policy. Unless otherwise indicated, the changes noted above will go into effect on **August 9, 2024**. A brief implementation timeline is included below for reference. Program participants with questions regarding this guidance can contact Gabi.Pierce@maine.gov for additional clarification.

Effective May 15, 2024

Employees and assistants will no longer be subject to criminal history records checks as a requirement for issuance of an individual or registry identification card.

Effective July 1, 2024

Registry identification cards (except caregiver registry identification cards) will start being issued to medical program participants every two years.

Effective August 9, 2024

All laws enacted during the second regular session of the 131st Legislature will go into effect, except for those requiring additional rulemaking to implement.

Effective date to be announced, likely Fall 2024

The rules governing the Adult Use Cannabis Program will go into effect, authorizing deliveries by some cultivation facility licensees and products manufacturing facility licensees, off-premises sales at specified events by cannabis store licensees, consumer samples at cannabis stores, and the use of products manufacturing facility equipment to manufacture non-cannabis foods.

July 1, 2025

Individual identification cards will start being issued to adult use program participants every two years.