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To: Medical Marijuana Workgroup Members
From: Director Erik Gundersen, Office of Marijuana Policy
Date: Monday, December 13, 2021
Subject: Approach to 2022 Rulemaking within the Maine Medical Use of Marijuana Program

Background

In early 2021, the Office of Marijuana Policy (OMP) commenced rulemaking related to the Maine Medical Use of Marijuana Program (MMMP). Ultimately, any changes to the program rules were delayed by the legislature, and OMP convened the Medical Marijuana Workgroup to—among other things—advise on improvements in Maine’s medical cannabis program and fulfill the stakeholder engagement charges in [Public Laws 2021, ch. 387](#) (LD 1242) and [Resolves 2021, ch. 95](#) (LD 882).

The purpose of this memorandum is to provide you with a high-level summary of how OMP intends to approach MMMP rulemaking in 2022.

OMP’s Philosophy When Considering Future MMMP Rulemaking

One of OMP’s [five guiding principles](#) is to: “develop and institute regulations that are necessary, not over burdensome.” The rules proposed by our office at the beginning of this year—while rooted in the underlying statutory language—were too much, too soon for too many.

OMP approached its 2021 medical marijuana rulemaking with information deficits. The knowledge and experience of the members selected to serve on the Medical Marijuana Workgroup has been invaluable to OMP as we have discussed improvements to the medical cannabis program in Maine. We have used the workgroup process as an opportunity to learn, and we intend to use the rulemaking process as an opportunity to clarify rules for all stakeholders while simultaneously looking at how best to approach mitigating the costs to both patients and registrants.

Our focus as a regulator should be to prioritize the needs of Maine patients and Maine businesses. We articulated this vision when convening the first workgroup meeting and commit to this focus now and into the future.

What to Expect from the Proposed 2022 MMMP Rulemaking

What won’t be in the rule?

- Mandatory testing and the pediatric patient certification process, while subject to discussions by the workgroup, will not be part of the 2022 rulemaking.
 - These topics will be addressed in OMP’s report back to the Maine Legislature.
- Operating plans and standard operating procedures, which were a requirement of previous rulemaking, will not be required by MMMP registrants.

- The vast majority of MMMP registrants will not be subject to additional security standards.
- The vast majority of MMMP registrants will not be subject to inventory tracking.
 - To be discussed further at December 14, 2021 workgroup meeting.
- Visitors (i.e. vendors and contractors) will not be required to be escorted by the registrant while working on the registered premises.
- Most language related to Maine-based patients and medical providers will be removed from the rule, with statutory language serving as the guide for interested parties.
- Registrants will no longer be required to report suspected illegal activity.
- All references to inspections by law enforcement without a warrant will be removed.

What will be contained in the rule?

- A definitive statement will be included in the rule clarifying that telemedicine is an acceptable forum for medical providers certifying patients.
- Relaxed security standards will apply to caregiver retail stores and registered dispensaries.
 - Security cameras may be motion activated rather recording 24 hours a day.
 - Lighting and cameras located at access points to dispensary cultivation area rather than the entirety of a cultivation area.
- Automatic registration of Adult Use Marijuana Program marijuana testing facilities to operate as MMMP testing facilities.
- Language clarifying the exceptions to authorized conduct that apply to visiting qualifying patients accessing Maine's medical cannabis program.
- Registered caregiver will be limited to one cultivation area.
- Language clarifying the type of business entity registered caregivers may operate, particularly in light of the recent availability of dispensary registrations.

What is the anticipated timeline for rulemaking?

- January 2022: Rulemaking public hearing.
- March 2022: Provisional adoption and filing with Maine Legislature.
- March 2022-April 2022: Legislative review and process.

Conclusion

OMP has benefited significantly from the work and discussions of the Medical Marijuana Workgroup. We believe that the knowledge and insight we have gained from this process will be reflected in the work product formally proposed for rulemaking in the medical cannabis program. At the same time, we understand that some individuals or groups may not agree with some, most, or all of the program rules that are developed by OMP.

While the work we have tasked this group with addressing may be coming to a conclusion, we hope and expect that members of this workgroup will remain involved in MMMP rulemaking through both the administrative and legislative processes. This will include a public hearing and written public comment period conducted by OMP during the Maine Administrative Procedures Act rulemaking process, as well as a public hearing and work session(s) conducted by the Joint Standing Committee on Veterans and Legal Affairs.