

CANNABIS REFORM

Senate Bill 516 and House Bill 556

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Maryland passed Senate Bill 516 and House Bill 556 this past session, which, among other things, legalizes the recreational sale of cannabis. This presentation will provide a broad overview of the new regulatory structure, what is coming in the short-term, and highlight some aspects of these bills that may be of interest to doctors.

THE BIG PICTURE

- Maryland Medical Cannabis Commission → Maryland Cannabis Administration
 - Independent
 - One Director
 - Regulation of both Medical and Recreational Cannabis
 - Collaboration with the Alcohol, Tobacco, and Cannabis Commission
- Advisory Board on Medical and Adult-Use Cannabis



The Maryland Medical Cannabis Commission is now the Maryland Cannabis Administration (“Administration”), which is an independent state agency that will regulate both medical and recreational cannabis. The Administration will be headed by a director appointed by the Governor and approved by the Senate and will work with the newly renamed Alcohol, Tobacco, and Cannabis Commission (“Commission”).

The Advisory Board on Medical and Adult-Use Cannabis, which is chaired by the Director of the Administration and comprised of various stakeholders including health care providers. This Board will provide advice and guidance upon the request of the Administration, Commission, Governor, General Assembly, or other government body and may also provide guidance on its own initiative.

MEDICAL CANNABIS

- Registration = Valid
- Patient & Caregiver Registration = Valid
- Patient & Caregiver Identification Card = Valid
- Regulations = Same For Now
- No Tax
- NO Gifts, Compensation, or Ownership Interests From Licensees



In the medical cannabis space, a lot is staying the same.

Your registration is still valid until its stated expiration.

Your patients' and their caregivers' registration and identification cards will remain valid until their expiration.

Regulations concerning medical cannabis will remain the same until the Administration promulgates new ones.

Medical cannabis will continue to not be taxed.

What is new is that if you are a certifying provider, you and your spouse may not receive any gifts, compensation, or ownership interests from any cannabis licensees.

JULY 1, 2023

- Administration – Emergency Regulations
- Start of Adult-Use Sales
- Patients & Caregivers - Dispensaries MUST:
 - (1) Enough Supplies AND
 - (2)(a) Special Hours OR (b) Dedicated Services Lines



Before this date, Administration should have emergency regulations in place, and those will largely pertain to the adult-use market and health and safety standards. The emergency regulations will only supplement existing regulations at this time. The Administration did release draft emergency regulations. Of note, medical cannabis users will be able to receive high potency cannabis products whereas recreational users will not receive these products.

July 1, 2023, recreational cannabis sales will begin.

Also on July 1, 2023, dispensaries must have enough supplies to serve medical cannabis patients and the adult-use market. Dispensaries must also have special hours or dedicated service lines for medical cannabis patients.

SALE OF DELTA 8, 9, AND 10 AND OTHER CANNABINOIDS

Rule

- < .5 mg per serving or 2.5 mg per package
- License
- Follow all manufacturing, labeling, packaging, and laboratory testing standards.
- NO sale or distribution > 21 years old
- Misdemeanor offense

Exception – Hemp-Derived Tincture

- Ratio of CBD to THC or another cannabinoid is 15 to 1 AND ≥ 2.5 mg per serving AND ≥ 100 mg per package
- No license
- Submit to laboratory testing



Rule: A product that contains over .5 mg per serving or 2.5 mg per package of THC or other cannabinoid must (1) have a license, (2) comply with all manufacturing, labeling, packaging, and laboratory testing, and (3) may not be sold or distributed to anyone over 21. If a person violates this section, it is a misdemeanor criminal offense that carries a fine of up to \$5,000.

However, there is an exception to this rule for hemp-derived tincture. For hemp-derived tincture to fall within this exception, the product must have a CBD to THC or cannabinoid ratio of 15 to 1 and must have equal or less than 2.5 milligrams per serving AND equal or less than 100 mg per package of THC or cannabinoid. There is no requirement that the seller have a license, but the tincture must be laboratory tested to confirm the potency of the product.

PROHIBITIONS

Criminal Offenses

- Products Not Derived From Naturally Occurring Biologically Active Chemical Constituents

Civil Penalties - Licensees

- Persons Under 21 Unless a Medical Cannabis Patient or Caregiver
- Intoxicated Individual
- As a Prize
- Direct to Consumer Internet Sales



Another criminal offense in the bill is the sale or distribution of products that are not derived from a naturally occurring, biologically active chemical constituents. A violation is misdemeanor offense with a fine up to \$10,000.

A licensee is also subject to license suspension, revocation, and fines if the licensee

(1) Sells or distributes cannabis to any person under 21 unless the person is over 18 years old and is a medical cannabis patient or caregiver

(2) Sells or distributes to an intoxicated person

(3) Provides cannabis as a prize, premium, or as consideration for winning or partaking in a competition of any kind

(4) Makes any direct-to-consumer internet sales. This prohibition is in place until 2025 unless amended by the General Assembly.

ADVERTISING

- No Targeting Individuals Under 21
- Must Demonstrate 85% of Audience Will be 21 or Older for Electronic & Print Communications
- No Buildings or Public Places
- Websites
 - Age Verification Before Entry & Collection of Consumer Data
 - Alternative Screening for Medical Patients Under 21
- Social Media & Mobile Apps
 - Disclaimer 21 or Older to View



Some previous advertising prohibitions are staying the same such as not showing cannabis consumption, encouraging cannabis use as an intoxicant, among others. Just like any other Maryland business, licensees also cannot make false and misleading statements and a violation subjects a licensee to State investigation and possible enforcement action. With the advent of the adult-use market, however, the Cannabis Reform legislation places additional rules on the type of advertising that licensees are permitted to partake in, and a violation of these rules could result in license revocation, suspension, or monetary penalties.

An advertisement is the publication, dissemination, or circulation of any auditory, visual, digital, oral, or written matter, which is directly or indirectly calculated to induce the sale of cannabis or any cannabis-related product or service. The following are some additional restrictions on advertisements:

- (1) An advertisement cannot target individuals under 21 years old
- (2) Prior to running an advertisement on TV, radio, internet, apps, social media or other electronic communications or print publications, the licensee must be able to demonstrate that 85% of the audience will be 21 years old and older.
- (3) Advertisements cannot be on buildings or publicly visible locations such as billboards, electronic signs, etc.
- (4) Advertisements on social media or mobile apps must include a disclaimer that a person

needs to be 21 and older to view content. It is important to note that advertisements on social media or mobile apps would still need to satisfy the requirement that 85% of the audience be 21 or older.

- (5) Cannabis websites must require age verification before entry and before collecting consumer data. These websites must also allow alternative age verification for medical cannabis patients and caregivers under 21.

Note: These rules do not apply to advertising on the property of a dispensary, grower, or processor and do not apply to packaging and labeling.