

# SCHWARTZ, METZ & WISE, P.A.

ATTORNEYS

20 WEST STREET  
ANNAPOLIS, MARYLAND 21401

TEL: 410-244-7000

FAX: 410-269-5443

## Summary of Medical Cannabis Legislation 2019 Legislative Session

### **Dispensary Licenses**

The first major bill was *Senate Bill 426 – Medical Cannabis – Regulation of Dispensaries, Growers, and Processors*. This bill allows a person to have an interest (ownership, control of or a management agreement) in no more than four dispensaries. The legislation maintained the requirement for only one license for both growers and processors.

### **Advertising, Edibles, Academic Institutions and Moratorium Extension**

The second major piece of legislation affecting the cannabis industry was *House Bill 17 – Natalie M. LaPrade Medical Cannabis Commission – Processing and Dispensing Medical Cannabis*. This came to be referred to as the “Omnibus Cannabis Bill” because it consolidated multiple pieces of cannabis-related legislation into one bill. The bill passed on the last day of Session. As passed, it is an emergency bill that makes numerous changes to the State’s medical cannabis program, including:

- (1) Authorizing an academic research representative (employee of an institution of higher education, a related medical facility, or an affiliated biomedical research firm) to register with the Natalie M. LaPrade Medical Cannabis Commission (Commission) to purchase medical cannabis for research purposes.
- (2) Requiring the Commission to allow licensed medical cannabis dispensaries and processors to sell “edible cannabis products.”
  - “Edible cannabis product” means a medical cannabis product intended for human consumption by oral ingestion, in whole or in part, including medical cannabis products that dissolve or disintegrate in the mouth. “Edible cannabis product” does not include any medical cannabis concentrate; medical cannabis–infused product, including an oil, a wax, an ointment, a salve, a tincture, a capsule, a suppository, a dermal patch, or a cartridge; or other dosage form that is recognized by the United States Pharmacopeia, the National Formulary, or the Food and Drug Administration and is approved by the Commission.
  - The Commission, in consultation with the Maryland Department of Health must adopt regulations, including but not limited to the packaging, labeling, marketing, and appearance of edible cannabis products, to ensure the safety of minors.
  - The Commission may also adopt regulations to require a processor to meet any additional requirements that the Commission determines are necessary, including requiring a permit, for the processing of edible cannabis products.

- (3) Increasing the length of time from two to three years a medical cannabis license holder must be actively engaged in the industry before selling or transferring ownership of the license.
- (4) Adding the revocation of mandatory supervision, parole or probation to the legal protections for individuals participating in the State's medical cannabis program.
- (5) Restricting medical cannabis advertising as follows:
- All advertisements for medical cannabis, medical cannabis products, edible cannabis products, or medical cannabis-related services that make therapeutic or medical claims must: (1) be supported by substantial clinical evidence or substantial clinical data; and (2) include information on the most significant side effects or risks associated with the use of cannabis.
  - An advertisement for a grower, a processor, a dispensary, an independent testing laboratory, a certifying provider, or a third-party vendor may not:
    - Make any statement that is false or misleading in any material way or is otherwise a violation of §§ 13-301 through 13-320 of the Commercial Law Article (abusive, deceptive, unfair trade practices).
    - Contain a design, an illustration, a picture, or a representation that:
      - encourages or represents the recreational use of cannabis;
      - targets or is attractive to minors, including a cartoon character, a mascot, or any other depiction that is commonly used to market products to minors;
      - displays the use of cannabis, including the consumption, smoking, or vaping of cannabis;
      - encourages or promotes cannabis for use as an intoxicant; or
      - is obscene.
    - All advertising for medical cannabis, medical cannabis products, or edible cannabis products must include a statement that the product is for use only by a qualifying patient.
  - Any website owned, managed, or operated by a certifying provider, dispensary, grower, or processor must employ a neutral age-screening mechanism that verifies that the user is at least 18 years of age, including by using an age-gate, age-screen, or age verification mechanism.
  - An advertisement placed on social media or a mobile application must include a notification that:
    - A person must be at least 18 years old to view the content; and
    - Medical cannabis is for use by certified patients.
  - These requirements do not apply to an advertisement placed on property owned or leased by a dispensary, grower, or processor.
  - Any advertisement for medical cannabis, medical cannabis products, edible cannabis products, or medical cannabis-related services may not be placed within 500 feet of:
    - A substance abuse or treatment facility;
    - A primary or secondary school or a child care center licensed or a family child care home; or
    - A playground, recreation center, library, or public park.

- The Commission must adopt regulations to establish procedures for the enforcement of this section and a process for an individual to voluntarily submit an advertisement to the Commission for an advisory opinion on whether the advertisement complies with the restrictions on advertisements or medical cannabis, medical cannabis products, edible cannabis products, and medical cannabis–related services.

### **Pesticide Labeling**

The third major bill was **voted unfavorable** by the Senate Judicial Proceedings Committee. *Senate Bill 749 – Medical Cannabis – Pesticide Use – Labeling and Study* would have required a licensed medical cannabis dispensary or a registered dispensary agent to ensure that all medical cannabis grown using a pesticide and medical cannabis products containing medical cannabis grown using a pesticide have a label affixed to the product at the time of sale stating that the medical cannabis was grown using pesticides.