

**MARYLAND MEDICAL CANNABIS COMMISSION  
POLICY COMMITTEE MEETING  
May 27, 2020  
VIA Conference Call  
MINUTES**

**Policy Committee Members Present**

Commissioner Tiffany Randolph, Chair  
Commissioner Liz Hines  
Commissioner Charles LoDico

**Policy Committee Members Absent**

Commissioner Megan Dingus  
Commissioner Scott Welsh

**Other Commissioners Present**

Brian Lopez, MMCC Chair

**MMCC Staff Present**

Will Tilburg, MMCC Executive Director  
Lori Dodson, MMCC Deputy Director & Director of Compliance for ITLs  
David Torres, Director of Communications  
Mary-jo Mather, Director of Administration  
Heather Nelson, Assistant Attorney General  
Jamie Tansey, Assistant Attorney General  
Taylor Kasky, Director of Policy and Government Affairs  
Rebecca Jackson, Policy Analyst  
Kathryn Callahan, Policy Analyst  
Christi Megna, Policy Analyst  
Marla Rosado, Policy Analyst  
Cheryl Cooper, Executive Assistant

Chairwoman Tiffany Randolph called the meeting to order at 2:01 pm. A quorum was achieved. Prior to the meeting, Policy Committee members were emailed the proposed amendments to the Regulations, the nine comments received, and the meeting Agenda.

**Universal Symbol**

Ms. Randolph invited Executive Director Will Tilburg to discuss the Universal Symbol, which would be affixed to any package with THC produced for sale by a Maryland licensed entity. He noted that staff and the Executive Committee reviewed the design options and approved the symbol provided based on the coloring, content and shape. A discussion followed regarding the possibility of registering the symbol so that legal steps might be taken if unlicensed product producers used the symbol. The universal symbol will be used by any agency on the State level. The label with the universal symbol will only be required to be applied to the external packaging, not the product itself.

## **Regulatory Summary**

Taylor Kasky, the Director of Policy and Government Affairs, provided a summary of the regulations. She noted that new regulations became final on May 18, 2020, after being published in final form in the *Maryland Register*. The implementation date for three of the regulations is being postponed until September 1, 2020: the Clinical Director requirement; the increase in the retention time for video surveillance tapes from 30 to 90 days; and the Patient ID card fee waiver for Veterans and patients receiving Maryland public assistance. In regard to proposals under development, the Edibles regulations are drafted and await Departmental approval, with the expectation that the draft regulations will be published in the *Maryland Register* by July.

## **Ancillary Businesses and Security Guard Company Registrations**

Mr. Tilburg discussed the draft regulations in development for Ancillary Businesses and Security Guard Registration. These proposals were posted on the Commission's website on May 13 to afford stakeholders the opportunity to submit written comment in advance of the Policy Committee meeting, and to allow staff to consider any edits of the draft proposals. Of the nine comments received, most were positive and were submitted by the medical cannabis industry. Mr. Tilburg noted that the purpose of these proposals is to codify changes to processes and procedures, and to authorize MMCC administrative staff to processes and procedures, streamline regulatory processes for business, and to allow for administrative approval of certain registration activities.

Mr. Tilburg noted that these proposals received favorable comment from the medical cannabis industry's trade association, MDMDA. One commenter did oppose these proposals, stating that the forms used requested burdensome information, and that Commission registration of security companies was redundant because these companies are required to be registered by the Maryland State Police, and also undergo criminal background checks by MSP. Executive Director Tilburg noted that there are significant differences in the due diligence processes performed. The Maryland State Police regulations do not contain any disqualifying criminal convictions in order to be registered, and only checks the Maryland criminal records history database. MMCC not only performs a search of the federal criminal records database, but also all state databases. MMCC also excludes any applicant who has a felony drug offense in their criminal history. The negative comment also stated objections to the fees to register each agent of a security guard company, claiming they were financially burdensome. Mr. Tilburg stated that the Commission must always weigh the risks of diversion by any party, so as not to invite federal investigation, a continuing occurrence in other states, and compromising the existence of Maryland's medical cannabis program, and that the operational costs explain the costs of badging security guard company agents. Commissioners discussed agent registration for other medical cannabis businesses. Staff review of the information collected in agent applications for security guard companies noted only two requirements: proof that the company is authorized to do business in the State from the State Department of Assessments and Taxation, and describing the specific details as to the company's standard operating procedures in the event of a theft or diversion of medical cannabis. As a result of these comments, staff prepared an amendment to the security guard regulations which appear in §D of the proposal. Evidence of tax payments being in arrears in any jurisdiction was eliminated as grounds for mandatory denial or registration. Commissioner LoDico provided a Motion to take a vote to approve the

proposal. Commissioner Hines seconded, and upon a verbal roll-call vote, the proposal was adopted 3-0.

### **Certifying Provider Compensation Agreements**

Executive Director Tilburg provided a summary of the current regulations. He explained that the new proposal would clarify that certifying providers may speak at educational events hosted by medical cannabis licensees, as long as compensation is not received at these events, and certifications are not issued at these events. He stated that a knowledge gap exists in general information about cannabis in the medical community, and that these educational opportunities have great benefit. However, commissioners, and in particular, the Final Review Subcommittee tasked with reviewing compensation requests, have expressed concerns about agreements to refer patients to specific providers, or for providers to refer patients to a specific Dispensary. The Committee engaged in a lengthy discussion as to what conditions and carve outs might be permitted. Mr. Tilburg suggested these details might be developed in a workgroup of industry participants to address some of the concerns raised. Policy Committee Chairwoman Tiffany Randolph suggested moving forward to form a workgroup, and tabled any further discussion pending a work group on the issue.

### **Physician Assistant and Caregiver Provisions**

Ms. Kasky noted that regulatory changes were the result of bills passed in the 2020 legislative session. Each of these proposed changes is to make the regulations consistent with the authorizing statutes. The first change would authorize Physicians Assistants to be added to the list of medical providers who may certify patients for medical cannabis use.

The second change following the new statute allows the two primary caregivers for a minor patient to select two additional caregivers to administer medical cannabis to the minor patient. This change would allow persons other than the parents or legal guardian to be expanded to school nurses, grandparents or other individuals designated by the parents or legal guardian. As a result, a minor patient might have up to four assigned caregivers. This provision only applies to minor patients. Commissioner LoDico made a Motion to approval the proposal; Commissioner Hines seconded the Motion, and upon a verbal roll-call vote the proposal was passed unanimously, 3-0.

### **Out-of-State Qualifications and Conflicts of Interest**

Mr. Tilburg noted that the new proposal would strike the requirement for a Maryland medical facility to be registered by the Joint Commission in order for a qualified patient who lives outside Maryland to receive medical cannabis during an in-patient stay. Instead, the proposal would permit individuals living outside of Maryland to become qualifying patients if receiving in-patient medical treatment at a long term care, nursing home, or assisted living facility in the State. The goal is to allow individuals who do not live in Maryland, but are present in the State, to receive medical treatment, and to access medical cannabis, if it is determined appropriate by their medical provider.

Mr. Tilburg again noted that cannabis remains illegal at the federal level, and that the Department of Justice continues to identify certain prosecutorial priorities when it comes to cannabis, including restricting interstate commerce and transport of medical cannabis.

Therefore, it is the priority of the Commission to adhere to these restrictions so as to not invite prosecution, loss of federal funds, or similar action that may jeopardize the future of Maryland's program. He added that the federal prohibition also affects CMS reimbursements to facilities. Mr. Tilburg noted that staff has researched states in the area, and the vast majority do not allow individuals who do not live in the state or are not residents of the state to participate in their program. Moreover, the small number of jurisdictions that permit individuals living elsewhere to access to medical cannabis have done so through their state legislature. Mr. Tilburg noted there are many legal practical concerns related to reciprocity with other states in this area, including: (1) there are extensive differences between state statutes governing medical cannabis, and: (2) the states with medical cannabis programs have no integration of patient and caregiver registries, making verifications difficult. In conclusion, the current federal law still prohibits sales of cannabis over State lines, and this further applies to allowing out-of-state patients to access medical cannabis in Maryland, and then crossing back over State lines to their home state. Neither the Maryland General Assembly nor the MMCC may provide immunity for arrest, prosecution, or any other action for individuals who live outside of the state of Maryland, and return to their home state with medical cannabis from Maryland. As such, MMCC staff recommends that this issue should be weighed by the Maryland General Assembly. The group discussed the definition of "residency", and Mr. Tilburg noted that the MMCC does not require residency to be a patient, only that the individual live in Maryland.

After the conclusion of an extensive discussion on the out-of-state issue, Commissioner Tiffany tabled this topic.

### **Licensee-Related Provisions in Draft Regulations**

Ms. Kasky summarized the proposals, and noted that the overall response from commenters was favorable. The group discussed deli-style sales, home and curbside deliveries, and whether a medical cannabis patient as a passenger in a vehicle would be permitted to be dispensed medical cannabis without being the driver of the vehicle. Ms. Kasky noted that the regulations prohibit dispensing to a patient in this scenario unless it is the actual patient or caregiver who is "entering the premises". The only exception to this scenario is a minor patient as a passenger, whose parent or caregiver is dispensed the minor's medicine. Mr. Tilburg noted that since there are several ways for patients to access cannabis, including home delivery, the security risks associated with allowing any individual to drive up and access cannabis if a patient or caregiver is a passenger in the vehicle outweigh any marginal benefit of allowing such a practice. He further noted that the regulations have been slightly changed during the pandemic, and these are outlined in a Bulletin addressing curbside delivery. A forthcoming Bulletin will address curbside delivery after the lifting of the State of Emergency in Maryland.

### **New Business**

Chairwoman Randolph asked attendees if there was any new business to discuss. None was offered. Mr. Tilburg also expressed his thanks to Commissioners for their acceptance of the new meeting technology, and also expressed his thanks to those who provided public comment. A Motion to Adjourn was offered by Commissioner LoDico and seconded by Chairwoman Randolph. The meeting adjourned at 3:37 pm.