



Cannabis Therapy Institute

Cannabis Education, Research & Advocacy

Encouraging the Economic Development of Medical Cannabis Businesses in Colorado

A Report by the Cannabis Therapy Institute

Revised October 6, 2009

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Oct. 6, 2009

Dear Policymaker:

As you know, the number and type of medical cannabis businesses are rapidly increasing in Colorado in response to a strong demand from medical cannabis patients to have safe, reliable access to their medicine. Many communities are starting to develop regulations regarding medical cannabis businesses. The attached report, *Encouraging the Economic Development of Medical Cannabis Businesses in Colorado*, was written to give background and clarity to the issue and to provide a framework that can be used to regulate and foster cannabis business development in your community.

Cannabis medicine is an entirely new industry in the state and represents a unique opportunity for local officials to improve their economies by welcoming these businesses to their communities and encouraging their efforts to provide safe, reasonable access to legal patients. Just as Colorado is at the forefront of developing other "green" technologies, we would like to see the state embrace this new green economy for the benefit of all its citizens.

When designing new policies and regulations, it is critical to remember that this is a health care issue, affecting the lives of thousands of sick people who have all been qualified by their physicians and the State of Colorado to use cannabis as medicine. A proactive public health model can effectively address problems before they arise, and communities can design methods for safe, legal access to medical cannabis while keeping the patients' needs foremost.

The Cannabis Therapy Institute is composed of patients, caregivers and advocates in Colorado's medical cannabis community who want to ensure that any regulation keeps the patients' best interests in mind. Our regulatory framework will encourage cannabis businesses in your community by clarifying existing regulations and thereby helping provide legal protection from federal law. There are several different organizational models that caregivers are currently using to provide medicine to their patients, and none of them are currently defined in Colorado law. Our goal is to develop continuity across the state by coming up with a consistent model to implement Article XVIII, Section 14 of the Colorado Constitution and ensure patients have safe, consistent access to quality, affordable medicine.

This report is a living document. Please email all your feedback on it to:
policygroup@cannabistherapyinstitute.com

Sincerely,

Medical Cannabis Policy Group
Cannabis Therapy Institute



Encouraging the Economic Development of Medical Cannabis Businesses in Colorado

A report by the Cannabis Therapy Institute

I. History of Cannabis Medicine

Cannabis has been used as medicine by humans safely for over 10,000 years with not one death from an overdose. It was one of the most widely-prescribed medicines in the late 1800's and early 1900's until it was made illegal in 1937. It is an effective treatment for nausea, muscle spasms, glaucoma, seizures, severe chronic pain and many more conditions. There is no other medicine that treats so many conditions as effectively with so few negative side effects.

Cannabis was outlawed in 1937 due to interests in the pharmaceutical, petrochemical and timber companies who saw cannabis and hemp as competition. Cannabis was a medicine that people could grow in their backyards and that couldn't be patented, so pharmaceutical companies couldn't profit from it. In addition, non-psychoactive cannabis (industrial hemp) was seen as a threat to petrochemical and timber industries because it has so many commercial uses including, plastics, fuel, and paper. In the 1920's, hemp was becoming the basis for a new farm-based green economy. Henry Ford even built one of his first cars out of hemp.

II. Terminology: Cannabis vs. Marijuana

The term "marijuana" is a racist term invented in the 1920's "Reefer Madness" propaganda campaign to outlaw cannabis and hemp. The campaign was designed to make the public believe that cannabis was a "new drug" being used by Mexicans who were coming across the border to rape white women.

Cannabis is the name of the genus of the plant, which includes *Cannabis sativa*, *Cannabis indica* and other species and strains. Cannabis is the proper term for the medicine and is how the medicine was listed in the U.S. pharmacopeia from 1870 to 1941. Since most laws regarding cannabis were written after 1937, they use the word "marijuana" or "marihuana". We encourage everyone to use the proper term "cannabis" whenever possible to show sensitivity to the use of racist, offensive words.

III. Legal Background

Article XVIII, Section 14 of the Colorado Constitution (Colorado's Medical Marijuana Amendment) was adopted by voters in 2000 to allow patients with certain debilitating medical conditions to use cannabis as medicine. The Medical Marijuana Amendment provides an exemption from state law for patients if they cultivate up to 6 plants or possess up to 2 ounces of cannabis medicine. For amounts greater than this, the Amendment allows a patient to present an affirmative defense in court that these amounts were medically necessary.

If a patient cannot obtain the medicine for themselves, the Amendment allows patients to appoint a "primary caregiver" to obtain or cultivate the medicine for them. Most patients cannot provide their own medicine. Often, their illnesses make even the most common daily tasks very difficult. Cannabis cultivation is expensive, time-consuming, and requires expert knowledge that most patients don't have. So patients must rely on caregivers to provide them with medicine.

In July, the Colorado Board of Health and Environment clarified the issue by adopting rules which state that a caregiver's "significant responsibility" could mean simply providing a patient with medical marijuana. Since that decision, many businesses and collectives have started to serve the needs of the growing number of legal patients in Colorado. The issue for communities should not be how to curtail this activity, but rather how to capitalize on this new economic boom to benefit their patients as well as their community.

In adopting policies and regulations concerning medical cannabis businesses, it is important to remember that medical cannabis is a Constitutional right for Colorado citizens, the same as freedom of speech, freedom of religion and freedom of elections. Policymakers have a duty to uphold the Constitution and ensure that citizens can exercise their Constitutional right in a safe manner.

Federal Law

Medical cannabis is not protected under federal law. However, the Obama administration's new policy on medical cannabis says that the federal government will not enforce federal law in states with medical marijuana laws, *as long as medical cannabis businesses are complying with all state and local laws*. That is one reason why it is urgent to clarify state and local laws: so that cannabis-related businesses can be assured that they will not be targeted by federal law enforcement.

IV. Medical Cannabis Economic Development

Medical cannabis caregiver businesses benefit local businesses

A 2006 Report by Americans for Safe Access (ASA) in California¹ showed that medical cannabis businesses are typically positive additions to the neighborhoods in which they locate, bringing additional customers to neighboring businesses and reducing crime in the immediate area. Like any new business that serves a different customer base than the existing businesses in the area, medical cannabis businesses increase the revenue of other businesses in the surrounding area simply because new people are coming to access services, increasing foot traffic past other establishments. In many communities, the opening of a medical cannabis business has helped revitalize an area.

¹*Medical Cannabis Dispensing Collectives and Local Regulation*, Americans for Safe Access, Sept. 2006
<http://www.americansforsafeaccess.org/downloads/dispensaries.pdf>

Medical cannabis caregiver businesses decrease crime

The ASA Report also showed that medical cannabis businesses in the neighborhood actually tend to decrease crime, not increase it. Without medical cannabis businesses, patients must obtain their medicine on the black market, which leads to an increase in criminal activity and endangers the safety of the patient. With regulated medical cannabis businesses, patients obtain their medicine from a known caregiver and can have safe access to their medicine. Street sales and associated crime decrease. Medical cannabis businesses also decrease crime in the areas in which they are located because of the security and surveillance measures employed by the businesses and because patients and operators are vigilant and report any criminal activity to the police.

Medical cannabis is good for the economy

Cannabis is the basis of the original "green" economy. Medical cannabis businesses can revitalize local economies by providing green jobs, bringing more customers to local businesses, and increasing sales tax revenue. The best way for a community to benefit from legal medical cannabis is to encourage medical cannabis businesses to develop and expand in the areas. There is a large demand in all Colorado communities for cannabis as a safe alternative to dangerous and addictive artificial drugs. Local governments should find a way to capitalize on the demand to improve their local economies. Special medical cannabis districts or research parks are one way to encourage "cannabusinesses" to develop in your area.

V. Draft Ordinance: Medical Cannabis Business Regulation

Article XVIII § 14 of the Colorado Constitution (Colorado's Medical Marijuana Amendment) needs to be clarified to answer community concerns and to help ensure that medical cannabis businesses will be protected from federal law enforcement. The below draft ordinance is intended to provide a framework around which communities can regulate medical cannabis businesses while at the same time fostering the economic development of the medical cannabis industry and protecting patients' safe access to medicine.

Section 1. Short title. This ordinance shall be known as the Medical Cannabis Business Regulation Ordinance.

Section 2. Purposes

(1) The purpose of this ordinance is to implement Article XVIII, Section 14 of the Colorado Constitution, known as the Colorado's Medical Marijuana Amendment, and to regulate and encourage the operation of facilities lawfully used for the acquisition, cultivation, possession, manufacture, production, sale, distribution, dispensing, storage or transportation of medical cannabis and medical cannabis herbal remedies. This ordinance is intended:

- (a) To help ensure that legal patients who are residents of the City of _____ can obtain and use legal cannabis therapies and services for medical purposes.
- (b) To help ensure that legal patients and their primary caregivers who engage in the legal acquisition, cultivation, possession, manufacture, production, sale, distribution, dispensing, storage or transportation of medical cannabis solely for the legal patient's medical treatment are not subject to criminal prosecution or sanction.
- (c) To adopt regulations that treat cannabis as a legal herbal medicine.
- (d) To permit the safe and affordable distribution of medical cannabis to legal patients.
- (e) To protect citizens from the adverse impacts of irresponsible medical cannabis distribution, storage and use practices.

Section 3. Definitions

(1) "**Cannabis**" shall have the same meaning as the definition of "marihuana" or "marijuana" provided by Colorado Revised Statute 18-18-102 (18), but if that definition is amended by state law in the future, as amended. Currently, the definition is: "Marihuana" or "marijuana" means all parts of the plant *cannabis sativa* L., whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin. It does not include fiber produced from the stalks, oil or cake made from the seeds of the plant, or sterilized seed of the plant which is incapable of germination if these items exist apart from any other item defined as "marihuana" in this subsection (18). "Marihuana" does not include marihuana concentrate as defined in subsection (19) of this section.

(2) "**Medical cannabis caregiver service business**" means any business entity that is owned and operated by one or more primary caregivers, including employees, with the purpose of providing medical cannabis services to legal patients.

(3) "**Medical cannabis dispensary**" means any business entity engaged in retail sales of medical cannabis herbal products that is owned and operated by one or more primary caregivers, including employees, with the purpose of providing medical cannabis products to legal patients.

(4) "**Medical cannabis collective**" means any collection of 2 or more persons comprised exclusively and entirely of legal patients and the primary caregivers of those patients, including employees, the purpose of which is to provide education, referral, or networking services to patients, and to facilitate or assist patients in acquiring their medicine, including, but not limited to, the cultivation, manufacture, production, sale, distribution, dispensing, storage or transportation of medical cannabis herbal products for medical use by legal patients.

(5) "**Medical cannabis herbal product**" means cannabis and every compound, manufacture, salt, derivative, mixture, or preparation of cannabis, its seeds, or its resin manufactured solely for the medical use of legal Colorado patients. It does not include the stalks or oil or cake made from the seeds of the plant, or sterilized seed of the plant which is incapable of germination.

(6) "**Patient**" shall have the same meaning as the definition provided in Article XVIII § 14 of the Colorado Constitution or by any rules promulgated by the Colorado Board of Health and Environment.

(7) "**Primary caregiver**" shall have the same meaning as the definition provided in Article XVIII § 14 of the Colorado Constitution or by any rules promulgated by the Colorado Board of Health and Environment.

Section 4. Exemptions from ordinance

(1) Any patient who cultivates or manufactures cannabis for his or her own personal medical use is exempt from the requirements of this ordinance.

(2) Recognizing that there are smaller caregivers that do not need to be subject to additional regulations, primary caregivers who are serving the needs of 6 or fewer patients are exempt from the requirements of this ordinance.

Section 5. Allowed practices

All patients, primary caregivers, medical cannabis caregiver service businesses, medical cannabis collectives and medical cannabis dispensaries may engage in the acquisition, cultivation, possession, manufacture, production, sale, distribution, dispensing, storage or transportation of medical cannabis herbal products for medical use by legal Colorado patients as provided in Article XVIII § 14 of the Colorado Constitution.

Section 6. Medical cannabis caregiver service business – description

- (1) Medical cannabis caregiver service businesses provide services to patients, primary caregivers, medical cannabis collectives or medical cannabis dispensaries. These services include, but are not limited to, consultation and medicated food preparation.
- (2) Medical cannabis caregiver services may not be subject to sales tax, but all income must be reported properly on state and federal income tax returns.
- (3) Medical cannabis caregiver service businesses must obtain a State of Colorado business license.

Section 7. Medical cannabis dispensary – description

- (1) A medical cannabis dispensary must obtain a State of Colorado business license and obtain all applicable sales tax permits.
- (2) A medical cannabis dispensary must pay all required state and local taxes on all transactions, unless the business is a tax-exempt non-profit organization.

Section 8. Medical cannabis collective – description

- (1) The City of _____ recognizes that some legal patients may not be able to undertake all the physical activities necessary to cultivate cannabis for personal medical use. Accordingly, this section recognizes that legal patients and their primary caregivers may join together to form medical cannabis collectives for the purpose of cultivating and manufacturing medical cannabis and pooling their resources solely for the personal medical use of the members.
- (2) Membership in a medical cannabis collective must be restricted to legal patients and their primary caregivers. However, the medical cannabis collective may hire employees who are non-patients to facilitate the business of the collective.
- (3) Medical cannabis collectives and each member thereof, shall not sell, barter, give away, or otherwise distribute cannabis to non-members of the medical cannabis collective.

Section 9. Permitted zoning districts

- (1) Medical cannabis dispensaries shall be allowed in any retail, commercial, industrial, or agricultural zoning district.
- (2) Medical cannabis primary caregivers, medical cannabis caregiver service businesses, and medical cannabis collectives that do not sell retail products shall be allowed in any zoning district.

Section 11. Special requirements

Medical cannabis primary caregivers, medical cannabis caregiver service businesses, medical cannabis collectives and medical cannabis dispensaries shall:

- (1) Be subject to the same sign codes as other businesses in the same zoning district.
- (2) Provide adequate security on the premises to ensure patient safety.
- (3) Provide handicapped access as required by federal law.

Section 12. Patient rights

No person shall discriminate against a patient in any way for their medical use of cannabis. This includes, but is not limited to, discrimination in areas of employment and drug testing, health insurance, social services, probation, financial aid, veteran's benefits, or housing programs.

Section 13. Police procedures and training

- (1) Within six months of the date that this chapter becomes effective, the training materials handbooks, and printed procedures of the Police Department shall be updated to reflect its provisions. These updated materials shall be made available to police officers in the regular course of their training and service.
- (2) Medical cannabis-related activities shall be the lowest possible priority of the Police Department.
- (3) Patients, primary caregivers, and medical cannabis collectives, dispensaries, or service businesses that come into contact with law enforcement will not be cited or arrested and medical cannabis herbal products in their possession will not be seized if they are in compliance with the provisions of this ordinance.
- (4) Patients, primary caregivers, and medical cannabis collectives, dispensaries, and service businesses who come into contact with law enforcement and cannot establish or demonstrate their legal status, but are otherwise in compliance with the provisions of this ordinance, will not be cited or arrested and medical cannabis herbal products in their possession will not be seized if:
 - (a) based on the activity and circumstances, the officer determines that there is no evidence of criminal activity;
 - (b) the claim to be a legal patient, primary caregiver, medical cannabis collective, medical cannabis dispensary, or medical cannabis service businesses is credible; or
 - (c) proof of status as a legal patient, primary caregiver, medical cannabis collective, medical cannabis dispensary, or medical cannabis service businesses can be provided to the Police Department within three business days of the date of contact with law enforcement.
- (5) A legal patient, primary caregiver, medical cannabis collective, medical cannabis dispensary, or medical cannabis service business may transport medical cannabis within the City of _____.
A patient or primary caregiver may not be charged with DUI based solely on the presence of medical cannabis in the motor vehicle, if the patient or primary caregiver did not also present sufficient evidence of impairment at the time of arrest.
- (6) A legal patient, primary caregiver, medical cannabis collective, medical cannabis dispensary, or medical cannabis service businesses may possess medical equipment or paraphernalia used to smoke, vaporize or otherwise consume cannabis for medical use only by legal patients.