
From: Cannabis (HC/SC) <cannabis@hc-sc.gc.ca>
Sent: Wednesday, February 9, 2022 3:33:37 PM
To: Auger, Robert <rauger@essex.ca>
Subject: Health Canada's response to your enquiry: 21-004256-535

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

To Robert W. Auger:

I am writing in response to your correspondence of November 16, 2020, to the Honourable Patty Hajdu, former Minister of Health, concerning the Town of Essex's resolution regarding cannabis production sites. I have been asked to reply to you directly. I apologize for the delay in responding.

Thank you for sharing the Town of Essex's concerns. I would like to take this opportunity to provide you with some information that may be helpful.

The [Cannabis Act](#) and the [Cannabis Regulations](#) create a strict framework for controlling the production, distribution, sale, and possession of cannabis in Canada.

The attached fact sheet provides some general information about the different forms of cannabis production and may be helpful in understanding the existing legal regime for cannabis production in Canada.

It is important to note that there are differences between the regulatory requirements for the different types of cannabis production authorized by the *Cannabis Act* and its regulations. For example, commercial cannabis licence applicants (cultivation, processing or sale for medical purposes) must provide a written notice to local authorities – including local government, law enforcement and fire authorities – prior to applying to Health Canada. The notification provision is designed to alert local authorities to the intentions of the applicant, and give them time to apply local by-laws, fire codes, zoning restrictions, and other rules.

Regarding the personal or designated production of cannabis for medical purposes, a similar requirement to notify local government is not required, as this would force a registrant to disclose personal medical information. Similarly, for privacy reasons,

Health Canada cannot share information on individuals who access cannabis for medical purposes with municipalities. However, the Department has the authority to disclose this information to law enforcement agencies upon request and in the course of an active investigation. For this reason, Health Canada actively supports law enforcement representatives by providing a dedicated service 24 hours a day and seven days a week to provide this information to assist investigations.

All persons authorized to produce cannabis for medical purposes are only authorized to produce and possess cannabis for their own medical purposes (or for the individual that they are designated to produce for) and **it is illegal for them to distribute or sell cannabis to anyone else**. The distribution and sale of illegal cannabis is illegal under the Cannabis Act and subject to law enforcement.

As noted in the fact sheet, Health Canada has made it easier for individuals to report a complaint about cannabis, including concerns with cannabis production sites. For future reference, individuals are encouraged to use the [Cannabis Reporting Form](#) available on the Department's website to report concerns, which also helps us review and address concerns in a timely manner.

Municipalities, provinces and territories that gather information regarding individuals or businesses that are operating outside the [Cannabis Act](#) and its regulations are encouraged to submit this information through the cannabis reporting form. All information provided to Health Canada is reviewed and can assist in the decision process for granting or denying a registration or licence as well as in compliance and enforcement actions for registered/licensed locations.

Health Canada's Role

As you may be aware, successive court decisions have established the right of individuals to have reasonable access to cannabis for medical purposes and have emphasized repeatedly that the government may only restrict an individual's access when such action is justified and consistent with the objective of protecting public health and safety. In response to these court decisions, a legal framework was established under the *Cannabis Regulations*, which Health Canada administers. It allows individuals with a signed medical document from their health care practitioner to access or grow a limited amount of cannabis for medical purposes.

Health Canada takes all complaints seriously and the Department is prepared to act on any evidence received that individuals who are registered to grow a limited amount of cannabis for medical purposes are not respecting the terms and conditions of their registration or the regulatory requirements. If warranted, after further investigation, Health Canada would take appropriate action to correct any potential non-compliance with the *Cannabis Regulations*.

The Department uses the powers under the *Cannabis Regulations* – where there is sufficient evidence – to refuse or revoke a registration where public health or public safety issues exist, including the risk of cannabis being diverted to an illicit market.

Evidence shared with Health Canada by law enforcement as a result of charges laid following a law enforcement investigation may be helpful. From the coming-into-force of the *Cannabis Act*, in October 2018, up until December 2021, Health Canada has refused to issue a registration 416 times and has revoked 148 registrations.

As in any regulatory framework, there will be instances where individuals choose to operate outside of the law. Anyone who suspects activity that may violate a law or a by-law, including the *Cannabis Act* and *Criminal Code*, should immediately contact their local law, or municipal by-law, enforcement authority. As noted above, Health Canada actively supports law enforcement representatives by providing a dedicated service 24 hours a day and seven days a week to confirm, when necessary, that specific individuals are authorized to possess or produce a limited amount of cannabis for medical purposes and by providing information, where appropriate to law enforcement and other authorities to assist with active investigations.

In addition to actions outlined above, Health Canada continues to take additional actions to strengthen its oversight and reduce the risk of abuse, using authorities under the *Cannabis Regulations*, by:

- conducting additional verifications when warranted (e.g., contacting the health care practitioner to confirm the validity of the medical document and to confirm the daily dosage amount; the verification of applications with multi-unit alternate production sites (i.e., not a primary residence);
- refusing or revoking a registration, if it is determined that an applicant has submitted false or misleading information as part of their application, such as a forged medical document;
- proactively sharing information on Health Canada's [website](#) and with provincial and territorial medical licensing bodies (e.g., College of Physicians and Surgeons of Ontario, Collège des médecins du Québec) about the authorizing practices of health care practitioners in their jurisdiction, to inform any action they decide to take, such as investigations;
- enhancing engagements and collaboration with important stakeholders, such as law enforcement and municipalities on the overall medical access regime;
- verifying that there are no more than four registrations at any given production site – the maximum allowed in the regulations – to reduce the risk of large-scale production sites; and,
- conducting inspections of personal registration sites to further verify compliance with the regulations.

Provincial, territorial and municipal roles

It is important to note that different levels of government and law enforcement have roles in maintaining public safety with respect to cannabis. It is the responsibility of municipalities to enforce their by-laws with respect to cannabis production, and law enforcement has the authority to take action against illegal cannabis activity under the

Cannabis Act and against those who operate outside of the legal framework.

Health Canada encourages all provinces, territories, and municipalities to use the tools at their disposal to confirm that individuals meet all standards and by-laws. This includes implementing any limitations on zoning, location and nuisances such as noise and lighting that they feel are appropriate in their jurisdictions. Municipalities could require building permits and inspections of electrical work at personal production sites. Please note that it is outside of Health Canada's jurisdiction to enforce provincial or municipal legislation.

Thank you for writing. I hope that my comments are helpful in addressing your concerns.

Should you have any further questions, you may contact the Controlled Substances and Cannabis Branch directly at cannabis@hc-sc.gc.ca, or toll-free at 1-866-337-7705.

Joanne Garrah
Director General
Licensing and Medical Access Directorate
Controlled Substances and Cannabis Branch
Health Canada

NOTICE OF CONFIDENTIALITY This communication, including any attachments, is intended only for the use of the addressee(s) to this email and is confidential. If you are not an intended recipient or acting on behalf of an intended recipient, any review, disclosure, conversion to hard copy, dissemination, reproduction or other use of any part of this communication is strictly prohibited. If you receive this communication in error or without authorization, please notify the originator immediately and remove it from your system.