

Deb Reid

From: Cannabis (HC/SC) <cannabis@canada.ca>
Sent: Tuesday, June 29, 2021 8:41 AM
To: Deb Reid
Subject: Health Canada's response to your inquiry - 20-009942-61

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JUN 29 2021
Public Agenda

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Dear Mr. Steele and Chief MacCulloch:

Thank you for your correspondence of November 4, 2020, addressed to the Honourable Patty Hajdu, Minister of Health, concerning the personal production of cannabis for medical purposes in your municipality. I have been asked to reply to you directly. I apologize for the delay in responding.

I appreciate that you have taken the time to express your concerns. Please allow me 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.

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.

While Health Canada cannot share information on individuals who access cannabis for medical purposes with municipalities, for reasons of personal privacy, we take all complaints seriously. The Department is prepared to act on any evidence we receive 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.

I would also like to share information on the federal, provincial and municipal roles with respect to the personal production of cannabis for medical purposes.

Health Canada's Role

All issues and complaints brought to Health Canada's attention are taken seriously. We review the information provided and determine the appropriate course of action. As part of this review, officials re-open the file(s) in question and consider all relevant information to determine whether there have been breaches of regulatory requirements. If non-compliance is found, Health Canada has a range of

enforcement tools at its disposal, from sending a compliance letter with a reminder of the individual's legal obligations up to and including sending them a notice of intent to revoke their registration.

If deemed necessary, the Department may also conduct an inspection of the registered individual's or designated producer's site. Health Canada's inspectors have authority, under the *Cannabis Act*, to verify compliance or prevent non-compliance with the Act and its regulations, including the terms of the registered person or designated person's authorization to produce and store cannabis for medical purposes.

Inspections are conducted based on the Department's risk-based approach to compliance and enforcement. Generally, inspections of registered individuals or designated producers are conducted at sites that may pose a higher risk such as those with a high number of plants or multiple registrations, or those where the Department has received a number of complaints from the public.

More information on Health Canada's approach to compliance and enforcement of the *Cannabis Act* and its regulations can be found on the Department's website.

As in any regulatory framework, there will be instances where individuals choose to operate outside of the law. Health Canada actively supports law enforcement representatives by providing a dedicated service 24 hours a day and seven days a week. Through this service, Health Canada can provide information to support active investigations, including the status of an individual's registration and plant limits. Please note that Health Canada has assisted federal, provincial and municipal law enforcement agencies with this service, including the Ontario Provincial Police.

Law enforcement has the ability to enter residences and any production sites in the context of an investigation. Registered and designated persons must be able show a copy of their Health Canada issued documentation to law enforcement, if requested.

For your reference, the Department uses the powers under the *Cannabis Regulations* – where there is sufficient evidence – to refuse or revoke a registration if it is likely to create a risk to public health or public safety, including the risk of cannabis being diverted to an illicit market or activity. Evidence shared with Health Canada by law enforcement, as a result of charges laid following a law enforcement investigation, may be helpful in this regard. From the coming into force of the *Cannabis Act*, in October 2018, up until March 31, 2021, Health Canada has refused to issue a registration 290 times and has revoked 79 registrations.

Health Canada also continues to strengthen its oversight and reduce the risk of abuse, using authorities under the *Cannabis Act* and Regulations, by:

- conducting additional verification of applications when warranted, including where the health care practitioner has authorized a high amount and applications with multi-unit alternative production sites (i.e., not a primary residence);
- enhancing engagement and collaboration with important stakeholders, such as law enforcement and municipalities on the overall medical access regime;
- proactively sharing information with provincial and territorial health professional licensing authorities (e.g., College of Physicians and Surgeons of Ontario) about the authorizing practices of physicians in their jurisdiction, to inform any action they decide to take, such as investigations;
- 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;

- 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.

The Department will monitor closely the impact of these enhanced and new actions over the coming months and make further adjustments if needed.

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 for example, require building permits and inspections of electrical work at personal production sites. For example, the City of Calgary actively coordinates inspections to enforce by-laws amongst personal registration holders.

Municipalities may also wish to refer to the Municipal Guide to Cannabis Legalization developed by the Federation of Canadian Municipalities, which provides guidance in areas such as odour and other nuisances.

Health Canada is prepared to share aggregate information with municipalities, including by-law officials, about the number of individuals registered to produce a limited amount of cannabis for their own medical purposes who have an address for production in a given town or city, as well as a breakdown by postal code where there is sufficient aggregate data. Any information shared with municipalities would be done in accordance with the *Privacy Act*.

Regarding the amount of cannabis authorized for medical purposes, Health Canada take steps to verify the validity of the medical documentation. However, decisions on whether cannabis is appropriate for an individual's medical condition and if so, the appropriate amount, are made by a health care professional within the scope of their medical practice.

The oversight of professional activities of health care practitioners is the responsibility of provincial and territorial medical regulatory authorities (colleges). In an effort to support provincial/territorial medical regulatory (licensing) authorities in their oversight of authorizing practices in their jurisdiction, Health Canada began proactively sharing data on the number of health care practitioners and the daily amounts authorized with these regulatory authorities in May and June 2019. In December 2020, the Department also began publishing additional data on its website on average daily amounts authorized by health care practitioners, and the number of health care practitioners authorizing over 25 and 100 grams per day.

We encourage you to share your concerns about the amount of cannabis that is being prescribed for personal production with the College of Physicians and Surgeons of Ontario.

In closing, Health Canada would be pleased to schedule a call to discuss the issues facing the municipality of Niagara. If you wish to schedule a discussion, you may reach out to Benoit Seguin,

Acting Director of the Office of Medical Access and Specialized Authorizations, at benoitp.seguin@canada.ca.

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@canada.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



REGIONAL MUNICIPALITY OF NIAGARA
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November 4, 2020

DELIVERED BY EMAIL

The Honourable Patty Hajdu
Minister of Health
patty.hajdu@parl.gc.ca

Dear Minister Hajdu:

RE: Medical Cannabis Grow Operations - Public Safety Concerns

We are writing on behalf of the Regional Municipality of Niagara Police Services Board and the Niagara Regional Police Service to request Health Canada address proper regulation of the cannabis industry, specifically with designated medical growers who are operating outside of their medical designations.

The *Federal Cannabis Act* controls the production, distribution, sale and possession of cannabis in Canada, including the application and licensing of personal and commercial medical cannabis production, which should be compliant with local municipal by-laws according to criteria set out for applicants in the process administered by Health Canada as the agency responsible for approval of cannabis production facilities.

Our concerns are for the significant number of operations growing for personal medical use under the certificate/registration system set up by Health Canada. Under the legislation, an adult individual is eligible to produce cannabis for their own medical purposes. The amount permitted to grow for personal use is contingent upon the maximum daily amount prescribed by a medical practitioner and whether or not the plants are going to be grown inside, outside or a combination of both. Health Canada's regulations govern the growing of medical cannabis and allow an individual to designate another individual to grow it on their behalf.

A maximum of four (4) certificates for growing medical cannabis for personal purposes are permitted per property. As a result, a significant amount of medical cannabis may be grown on a property for personal medical use. Designated growers are permitted to grow up to 500 plants per individual license, or potentially 2,000 plants. Further, Health Canada treats the certificates as medical information and as such, operators are not required to provide their certificates to municipalities or police, which prevents municipalities or the police from determining if an operation is legally permitted or not. This is exacerbated by minimal oversight or concern from Health Canada.

Police enforcement efforts across southern Ontario, including Niagara, indicate that many growers are producing well in excess of the maximum licensed number of plants. It has become clear that the excess being produced by designated growers is being funneled to the illicit market which is mostly controlled by organized crime.

This was well documented during a large-scale, multijurisdictional illicit cannabis growing investigation in August of this year, where police seized over an estimated \$42 million in drugs, equipment, weapons and other items. This included 101,049 illegal cannabis plants; 1,921 pounds of illegal cannabis bud; 21 pounds of illegal cannabis shatter and three pounds of illegal cannabis hash.

Unfortunately, this is not an uncommon occurrence. In July 2020, Niagara Regional Police made arrests and seizures at a large illicit cannabis operation in the City of St. Catharines with over 17,000 plants. The investigation resulted in the arrest of eleven people, with an estimated \$34 million in cannabis plants. In 2018, Niagara Regional Police arrested one individual for growing over 1,000 plants at an estimated worth of over \$1 million. In 2017, Niagara Regional Police busted two large medical grow operations that were operating under fraudulent Health Canada medical licenses for personal or designated use. In 2016, an individual was arrested with 500 plants and in 2015 the Niagara Regional Police arrested another person with over 1,000 plants that was also valued at just over one million dollars.

It is apparent that criminal enterprises are abusing the Health Canada registration, using it as a loophole to grow well over the allotted amount. These organized crime groups have been exploiting Health Canada medical, personal and designate cannabis production, instead growing the plants to sell illegally. Health Canada has strict rules governing licensing, odour, security, light pollution, chemical contamination, fire hazards and the like for federally-licensed grow facilities, however; no such oversight applies to personal and designated growers.

We are therefore urging the Federal Government to expand the legislative framework to provide greater oversight to address public safety concerns with the personal and designated medical growers who are operating outside the boundaries of their medical designations.

These unlicensed operations have become a significant concern for residents in the Niagara Region and our local municipalities from both a health and safety lens as well as from a land use and building code situation. Local municipal governments have responsibility for the enforcement of local by-laws and ensuring life-safety compliance with fire and building code regulations, but Health Canada has no process in place to share licensing information with local authorities about the location of medical cannabis production facilities. **By way of copy, we are calling on Niagara's MPs and MPPs for support, and urging the Niagara Region and Councils of its 12 local municipalities to call on the Federal Government to put in place the needed controls and oversight permissions that will provide safety, health and personal comfort to all residents of Niagara.**

Minister, we need your help to get these issues under control. We are asking that Health Canada take action against operations that cross the line into criminality. Police resources are stretched and the need to establish criminality limits police ability to respond to these operations that are causing such concern. Police enforcement is an important tool but we need other ways to manage the growing problems these unlicensed operations are creating. We need Health Canada to implement practices that will improve the sharing of information regarding cannabis certificates with police and municipalities, outline requirements for compliance with municipal zoning by-laws, include appropriate monitoring and inspections, and consider the need to revisit the formula for determining the maximum number of plants permitted under a certificate.

The Board and Police Service would certainly be willing to further engage with Ministry personnel in an effort to share our experiences and work collaboratively to increase the effectiveness of the legislation and enhance public safety.

Your consideration of the concerns raised in this letter would be greatly appreciated and we look forward to your response.

Yours truly,



William C. Steele
Acting Board Chair



Bryan R. MacCulloch, M.O.M.
Chief of Police

Copies to:

The Honourable Bill Blair, Minister of Public Safety and Emergency Preparedness
The Honourable David Lametti, Minister of Justice and Attorney General of Canada
MP Dean Allison, Niagara West
MP Chris Bittle, St. Catharines
MP Tony Baldinelli, Niagara Falls
MP Vance Badawey, Niagara Centre

President Micki Ruth, Canadian Association of Police Governance
Chief of Police Bryan Larkin, President, Canadian Association of Chiefs of Police

The Honourable Christine Elliott, Deputy Premier and Minister of Health
The Honourable Doug Downey, Attorney General
The Honourable Sylvia Jones, Minister of the Solicitor General

MPP Sam Oosterhoff, Niagara West
MPP Jennie Stevens, St. Catharines
MPP Wayne Gates, Niagara Falls
MPP Jeff Burch, Niagara Centre

Chair Patrick Weaver, Ontario Association of Police Services Boards
Chief of Police Paul Pedersen, President, Ontario Association of Chiefs of Police

Regional Chair Jim Bradley and Members of Council, Niagara Region
Mayor Dave Bylsma and Members of Council, Town of West Lincoln
Mayor Frank Campion and Members of Council, City of Welland
Mayor Jim Diodati and Members of Council, City of Niagara Falls
Mayor Betty Disero and Members of Council, Town of Niagara-on-the-Lake
Mayor Sandra Easton and Members of Council, Town of Lincoln
Mayor Kevin Gibson and Members of Council, Township of Wainfleet
Mayor Jeff Jordan and Members of Council, Town of Grimsby
Mayor Marvin Junkin and Members of Council, Town of Pelham
Mayor Wayne Redekop and Members of Council, Town of Fort Erie
Mayor Walter Sendzik and Members of Council, City of St Catharines
Mayor Bill Steele and Members of Council, City of Port Colborne
Mayor Terry Ugolini and Members of Council, City of Thorold

Board Members, Niagara Police Services Board