



EMERGENCY RULE RECOMMENDATIONS
NEW MEXICO DEPARTMENT OF HEALTH
MEDICAL CANNABIS PROGRAM



PREPARED BY:

FREEDMAN & KOSKI

FREEDMAN & KOSKI INC

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Producer Supply and Qualified Patient Demand

In this section, we analyze three different data points provided to the Medical Cannabis Program for determining current qualified patient demand for medical cannabis within the State of New Mexico. Every model converts to pounds demanded per a 3-month period to reflect the department's current adequate supply limit (230 units or 8.11 ounces per 3 months) for qualified patients.

National literature shows that it is reasonable to conservatively assume four harvests per year for a cannabis cultivation operation.¹ This assumption is validated by a Research & Polling INC survey conducted in April 2019 of all New Mexico licensed producers which found that 30% of growers had four or fewer harvests in a year while the remaining 70% ranged from 4.5 harvests per year or more.

NUMBER OF HARVEST PER YEAR TOTAL SAMPLE (N=34)	
1 HARVEST	9%
3 HARVESTS	9%
3.5 HARVESTS	6%
4 HARVESTS	6%
4.5 HARVESTS	3%
5 HARVESTS	18%
5.5 HARVESTS	3%
6 HARVESTS	3%
7 HARVESTS	3%
8 HARVESTS	3%
16 HARVESTS	3%
26 HARVESTS	3%
52 HARVESTS	3%

Source: Research & Polling INC survey conducted in April 2019 of current New Mexico licensed producers

Demand Model #1: Patient Survey

For this model, we used data derived from the May 2019 survey of New Mexico Qualified Patients issued by Research & Polling INC at the direction of the Medical Cannabis Program.

To determine the current patient demand for purchases from licensed producers, we calculated the estimated demand for each class of cannabis flower and products based on data that current qualified patients reported in the survey. We also calculated the equivalent amount (see figure 1) of cannabis in pounds required to produce cannabis-

Table III-4. Physical Equivalency Calculations

Product Type	Solvent	Purchase Amount	Trim Used in Production	Flower Equivalency Ratio	Ounce Equivalent	Quarter-Oz Equivalent
Edible	Butter	10 mg	0.08 g	0.07 g	413.49 each	103.37 each
Edible	Butter	100 mg	0.77 g	0.69 g	41.35 each	10.34 each
Edible	Butane	10 mg	0.08 g	0.07 g	391.07 each	97.77 each
Edible	Butane	100 mg	0.82 g	0.72 g	39.11 each	9.78 each
Edible	CO ₂	10 mg	0.09 g	0.08 g	346.96 each	86.74 each
Edible	CO ₂	100 mg	0.92 g	0.82 g	34.70 each	8.67 each
Concentrate	Butane	1 g	5.84 g	5.20 g	5.46 g	1.36 g
Concentrate	CO ₂	1 g	6.59 g	5.86 g	4.84 g	1.21 g
Concentrate	Ethanol	1 g	5.86 g	5.21 g	5.44 g	1.36 g
Concentrate	Water	1 g	10.29 g	9.15 g	3.10 g	0.77 g

Figure 1: From Colorado Marijuana Enforcement Division Equivalency Study

¹https://static.cdpa.ca.gov/MCCP/document/Literature%20Review_February_2017.pdf
<https://www.newcannabisventures.com/wp-content/uploads/MJardin-ArcView-Market-Report-Cost-Analysis.pdf>

derived products to most accurately determine the required supply.

The equation used was as follows:

$$\begin{aligned} & \text{Total qualified active patients registered as of April 2019} \times \text{Percentage of patients who} \\ & \text{reported buying from a licensed producer} \times \text{Average amount purchased in a 3-month period}^2 \times \\ & \text{Conversion to pounds of cannabis flower}^3 \times \text{1+ percentage of patients who purchased from a} \\ & \text{licensed producer but reported that cannabis was unavailable to them at any point in the past} \\ & \text{90 days} = \text{Total demand per 3-month period} \end{aligned}$$

Assumptions:

Where the model was unclear on how to move forward, we used conservative estimates that would create the largest plant counts.

1. First, under topicals, we used the flower equivalency conversion for concentrates as there is no flower equivalency for topicals. This equivalency creates a higher plant count than would likely be necessary.
2. Second, the total yield for a cannabis plant can differ significantly. The Research & Polling INC producer survey showed an average yield of 2 pounds per plant, while the median was 1.25 pounds per plant. We used a much more conservative average yield number of .75 pounds per plant based on 2017 data reported in Colorado's Inventory Tracking System on the theory that growers would not grow high-yield plants if they had a higher plant count.
3. Third, most significantly, we took the percentage of people who claimed that they were unable to purchase a product during the last 90 days and treated them as if they were an entirely new patient. For example, if the qualified patient had one experience during the previous three months where the edible product they usually buy was out of stock but the patient was otherwise able to purchase the product on other occasions, this model effectively counts that patient twice.

² Note, patients responded to the average amount consumed in a month in a non-uniform manner. We took the average amount reported that had the highest total responses.

³ For edibles, concentrates, and topicals, we used the flower equivalency study commissioned by the Colorado Department of Revenue to convert the demand to pounds of cannabis. Because the report calculated the amount of cannabis required through various extraction and concentration methods, we took the average of these methods (see chart on page 3).

https://www.colorado.gov/pacific/sites/default/files/MED%20Equivalency_Final%2008102015.pdf

Summary of Demand Model #1: Patient Survey

	Flower	Concentrates	Edibles	Topicals
Number of Qualified Patients	72375	72375	72375	72375
Percentage of patients buying from dispensary	0.69	0.53	0.61	0.36
Grams per three months purchased	50.4	9	1.44	1.05
Gram equivalency in flower grams per Colorado Department of Revenue equivalency study	1	5.423	7.38	5.423
Percentage Patients reporting unable to purchase +1	1.27	1.24	1.27	1.16
Pounds per Gram Conversion	0.0022046	0.0022046	0.0022046	0.0022046
Total Pounds	7,047.04	5,118.34	1,313.64	379.20

Total Pounds Demand Per 3 Months for all flower and products	13,858.22
Assumed average pounds of cannabis yield per plant	0.75
Number of plants required to meet demand per 3 months	18,477.63
Number of Licensed Producers	34
Plants per producer	543.46

Flower Demand:

72,375 qualified patients x 69% reported buying flower x Patient reported average of 50.4 grams per three months x 1/453.592 pounds per gram x 1.27 to compensate for 27% of patients reporting an inability to purchase flower = **7,047 pounds of cannabis per 3-month period**

Concentrates and Extracts Demand:

72,375 qualified patients x 53% reported buying concentrates x Patient reported average of 9 grams purchased per 3 months x 5.42 grams of flower equivalency per gram of concentrate x 1/453.592 pounds per gram x 1.24 to compensate for 24% of patients reporting an inability to purchase concentrate = **5118 pounds of cannabis per 3-month period**

Edibles Demand:

$$72,375 \text{ qualified patients} \times 61\% \text{ reported buying edibles} \times \text{Patient reported average of } 1.44^4 \text{ grams of THC in edibles purchased per 3 months} \times 7.38 \text{ grams of flower equivalency per gram of edible THC} \times 1/453.592 \text{ pounds per gram} \times 1.27 \text{ to compensate for 27\% of patients reporting inability to purchase concentrate} = 1314 \text{ pounds of cannabis per 3-month period}$$

Topicals Demand:

$$72,375 \text{ qualified patients} \times 36\% \text{ reporting buying topicals} \times \text{Patient reported average of } 1.05 \text{ grams of THC in topicals purchased per 3 months} \times 5.42 \text{ flower grams per gram of THC in topicals} \times 1/453.592 \text{ pounds per milligram} \times 1.16 \text{ to compensate for 16\% of patient reporting inability to purchase topicals} = 379 \text{ pounds per 3-month period}$$

**Total patient demand calculated based on the survey:
13,858 pounds of cannabis per 3-month period.**

$$\text{Total plants per 34 facilities: } (13,858 \text{ pounds of cannabis per 3-month period} / 0.75 \text{ pounds of cannabis yield per plant})^5 / 34 \text{ facilities} = 543 \text{ plants per producer}$$

Demand Model #2: O'Donnell Report

The O'Donnell Economics & Strategy report provided to Medical Cannabis Program tied total demand to total patient allowance, subtracting the allowance for patients to grow for themselves (PPL).

$$(\text{Total Patient Population}) \times (\text{Maximum Patient Allowance}) - (\text{PPL Production}) = (\text{Total Commercial Producer Demand in grams})$$

Here is that calculation.

⁴ We used the number of milligrams of THC in purchased edibles survey response from qualified patients here as the average per unit response was almost 6 times higher than all other medians and averages and appeared to come from a few users with extremely high numbers that should be considered outliers.

⁵ Based on average yield per plant in as reported in 2017 Colorado Inventory Tracking System. Note, the Reynold Greenleaf reports average of 0.876 pounds of yield per plant based on top 10 New Mexico licensed producers. <https://www.colorado.gov/pacific/sites/default/files/MED%20Demand%20and%20Market%20%20Study%20%2082018.pdf>

$$(70,600 \text{ qualified patients}) \times (920 \text{ G}) - (5,287,093 \text{ Grams}) = 59,664,907 \text{ grams per year.}$$

When converted to pounds per 3-month period, the result is **32,884 pounds of cannabis**.

The model then assumes that each plant harvested yields 20 ounces of usable cannabis per harvest, or 1.25 pounds. The model also assumes that there are 4 harvest cycles a year.

Thus, to meet current patient demand, the O'Donnell model should show a total of **26,307** plants per 3-month period.

When divided by the current number of facilities, the O'Donnell model should show that a **774 plant count limit** should be sufficient to supply patients with their maximum allowance.

NOTE: The numbers presented here do not align with those published in the O'Donnell report. First, while the O'Donnell model subtracts PPL production, the final calculation of plant counts appears to ignore that subtraction. Second, though the report acknowledges an average of four harvests per year, the final plant count number appears to assume only one harvest cycle a year. When making those assumptions, which appear to run counter to their own analysis, current plant count demand is found to be 114,556 total plants or 3,369 plants per producer. For purposes of analysis, we suggest the Department consider the O'Donnell model to recommend a current plant count limit of 774. Finally, the model also suggests that new laws will increase patient count from 70,600 to 93,513. Assuming correct usage of the model, this would require 985 plants per producer.⁶

Demand Model #3: Reynold Greenleaf and Associates

An additional producer-backed report was submitted to the Medical Cannabis Program by Reynold Greenleaf and Associates LLC.

This report was done in late February and contains a simple formula for calculating current patient demand and the requisite number of plants per producer required to meet that demand. We converted all measures into pounds per 3-month period to allow easy comparison to the numbers derived from the patient survey demand calculations and the O'Donnell Report.

The Reynold Greenleaf equation solving for the plant count per producer as the variable is as follows:

⁶ The O'Donnell Model analysis requests a current plant count of 3,100 per producer, and a future plant count of 5,000 by 2022. For reasons stated above, we believe these numbers do not align with their own model.

$$\frac{(\text{Average expected yield per 3 months in pounds based on Top 10 current licensed producers} \times \text{Plant count per producer}) \times \text{Number of licensed producers}}{\text{Current patient growth rate}} = \frac{((\text{Total qualified patient enrollment}) - \text{Personal production license patients}) \times \text{3-month adequate supply limits}}{\text{Current patient growth rate}}$$

$$\frac{(0.87578625 \text{ Pounds} \times \text{Plant Count per producer}) \times 35}{\text{Personal Production Patients} \times 0.5 \text{ Pounds}} = \frac{((68,995 \text{ Qualified Patients}) - 3773)}{1.37 \text{ Qualified Patient growth rate}}$$

$$0.87578625 \text{ Pounds} \times \text{Plant Count per producer} \times 35 = 44,677 \text{ pounds}$$

$$\text{Plant Count per producer} = 1478$$

Under the model used by this report, total patient demand calculates to **44,677** pounds of cannabis per quarter.

The average number of plants required per licensed producer to meet demand is **1478**.

There are several factors to note with this report. The number of qualified patients is based on an outdated number from the program, but model accounts for assumed total patient population growth by 37% in the next year and that each qualified patient will purchase the maximum adequate supply limit. The report also accounts for reduced demand by removing personal production license holders from calculations and differs from the patient demand survey, which calculated demand by using the percentage of patients who self-reported purchasing at a dispensary. Lastly, this report assumes that there are 35 licensed producers, while there are currently 34 and assumes a higher yield of 0.875 pounds per plant (while we used a more conservative 0.75 pounds of yield per plant). We adjusted for these factors when reporting the values for Reynold Greenleaf below in the summary of demand and supply calculations.

Summary of Demand and Supply Calculations from All Reports

This table is a summary of the various data models we have discussed. This table continues the assumption of four harvests per year. *Given that all these estimates rely on assumptions, these numbers should be considered as a rough order of magnitude and not an exact calculation.*

Source	Total Demand per Quarter	Plant Count to Meet Supply under Average National Yield Average (.75 pounds per plant)	Plant Count to Meet Supply under Producer's Survey Average Yield (2 pounds per plant)
Qualified Patient Survey	13,858 pounds	18,447 total plants 543 per producer	6,929 total plants 204 per producer
O'Donnell Study	32,884 pounds	43,845 total plants 1,289 per producer	16,442 total plants 483 plants per producer
Reynold Greenleaf	44,677 pounds	59,569 total plants 1,752 per producer ⁷	22,339 total plants 657 per producer
Maximum demand with the current patient population and adequate supply limit	36,188 pounds	48,250 total plants 1,419 per producer	18,094 total plants 532 per producer

	Cumulative Allowed Plants for all 34 Producers	Total Pounds Produced per Quarter Under Average National Yield (.75 pounds per plant)	Total Pounds Produced per Quarter Under Producer's Survey Average Yield (2 pounds per plant)
Maximum total supply statewide under emergency 2500 plant limit if all producers max out	85,000 plants	63,750 pounds	170,000 pounds
Total statewide plant count based on producers requested amounts under emergency 2500 plant rule	68,282 plants	51,211 pounds	136,564 pounds

⁷ This differs from the amount contained in the Reynold Greenleaf report due to the different yield percentage and number of licensed producers used to calculate this number

Current total statewide plant supply reported to DOH as of 5/9/2019	21,928 plants	16,446 pounds	43,856 pounds
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Draft Language for August Rule

In this section, we provide draft language that can be utilized at the discretion of the Department to accomplish the Medical Cannabis Program’s policy objectives for the August rule. Each recommendation identifies the portion of the existing producer rules that would be amended.

Overall, our recommendations are to create a mechanism that allows supply to grow as qualified patient demand increases. Additionally, we recommend some additional rules that can assist the department’s enforcement abilities and data collection efforts.

Options for Plant Count Increase:

7.34.4.7 DEFINITIONS:

XX. “Seedling” means a cannabis plant **without flowers that is less than 8 inches in height or width. has no flowers.**

7.34.4.8 PRODUCER LICENSING; GENERAL PROVISIONS:

(A)(2) A non-profit producer that operates a facility and, at any one time, is limited to a combined total of no greater than **<<Insert Plant Count Number>>** mature female plants, **seedlings** and male plants, and an inventory of usable cannabis and seeds that reflects current patient needs, and that shall sell cannabis with a consistent unit price, without volume discounts or promotional sales based on the quantity purchased. A non-profit producer shall not possess a quantity of either mature female plants or seedlings and male plants that exceeds the quantities authorized by their licensure and associated licensing fee. A licensed non-profit producer may sell and distribute usable cannabis to a person or entity authorized to possess and receive it. A licensed non-profit producer may obtain plants, seeds and usable cannabis from other licensed non-profit producers.

(a) Effective June 1, 2021, a non-profit producer may request an increase of up to 500 mature plants that exceeds the total plants allowed in paragraph (A)(2) at the time of renewal of its licensure period. To be considered for approval by the department, the non-profit producer shall demonstrate a need for the plant count increase to meet the

demand for their qualified patients. The non-profit producer shall provide the following information to the department to demonstrate the need for a plant count increase:

(i) Average yield of useable cannabis flower and trim produced by the non-profit producer from the past 12 months

(ii) Current reported inventory of cannabis and cannabis-derived products

(iii) Percentage of useable cannabis and cannabis-derived products that was sold to qualified patients or to another licensed producer or manufacturer

(iv) Any other information requested by the department.

(b) The department shall make a determination to approve or deny the non-profit producer's request to increase plant count based on the following factors:

(i) The non-profit producer has sold at least 80% of its useable cannabis for the last 12 months it has operated⁸; and,

(ii) The non-profit producer's current inventory and average yield of useable cannabis is consistent with current averages from other licensed producers; and,

(iii) The number and severity of complaints and enforcement actions on the non-profit licensed producer; and,

(iv) The information provided by non-profit producer is consistent with the quarterly reports or inventory tracking information provided to the department within the last 12 months; and

(v) The completeness of information and data provided to the department.

(c) Effective June 1, 2021, a non-profit producer may request an emergency increase once per year outside of their license renewal period, of up to 500 mature plants that exceed the total plants allowed in (A)(2) at any time. The department shall only approve the request if the non-profit producer can demonstrate clear and convincing evidence that it is not able to meet qualified patient demand for useable cannabis or cannabis-derived products with its current plant count or by obtaining useable cannabis or cannabis products from another licensee. The non-profit licensed producer shall provide objective data about the current supply in the medical cannabis

⁸ In order to justify this number, data from a Colorado Study on total existing inventory in the state's cannabis inventory tracking system was 9% in 2017, 14% in 2018, 23% in 2016
<https://www.colorado.gov/pacific/sites/default/files/MED%20Demand%20and%20Market%20%20Study%20%2082018.pdf>

market to demonstrate these factors. The department shall also consider the same factors in subdivision (b) when approving or denying this request.

(d) Any increase in plant count approved under this section shall void in the event of a transfer of the majority of ownership for a licensed producer. Following transfer of ownership, the plant limit for the license shall revert to the limit allowed in paragraph (A)(2).

(e) The department is not required to approve the request and retains sole discretion of its authority to approve or deny the request.

Options for Fee Structure

7.34.4.8 PRODUCER LICENSING; GENERAL PROVISIONS:

V. Fees applicable to applicants and licensees:

(1) Non-profit producer application fee: A non-profit producer shall submit with its initial application an application fee of ten thousand dollars (\$10,000). If the application is denied, the department shall issue a refund of nine thousand dollars (\$9,000) to the applicant.

(2) Non-profit producer license fee: A non-profit producer that is licensed shall submit to the medical cannabis program a non-refundable licensure fee before beginning operations, no earlier than July 1st of each renewal year and no later than August 1st of each renewal year, of the cumulative total of following amounts for cannabis plants to be possessed by the non-profit producer: thirty thousand dollars (\$30,000) for the first 150 cannabis plants to be possessed by the non-profit producer, and ten thousand dollars (\$10,000) for each additional quantity of 50 plants thereafter to be possessed, up to a maximum collective total of 450 cannabis plants.

(a) Tier 1: \$XXXX for first 150 plants

(b) Tier 2: \$XXXX for the next 300 plants above tier 1.

(c) Tier 3: \$XXXX for the next 550 plants above tier 2.

(d) Tier 4: \$XXXX for the next 500 plants above tier 3.

(e) Tier 5: \$XXXX for each additional plant exceeding the amount allowed in tier 4.

Options for additional inventory control

7.34.4.23 MONITORING AND CORRECTIVE ACTIONS:

(B) (1) Access: The department and its agents shall have reasonable access to the sales, **including data from point of sale systems**, and other financial records of a licensed non-profit producer, and shall be granted immediate access to those records upon request. A patient shall be granted reasonable access to a licensed non-profit producer's sales records for that patient upon request.

(3) Quarterly reports: A non-profit producer shall submit reports on at least a quarterly basis, or as otherwise requested, and in the format specified by the department. **The quarterly report shall include at a minimum:**

(a) Amount of sales tax paid to New Mexico Department of Taxation and Revenue

(b) Total usable cannabis plant yield

(c) Total dollar amount of sales to qualified patients

(d) Total volume of usable cannabis and cannabis products sold to patients and other licensed producers or manufacturers

(e) All quality testing reports

(f) Any thefts, robberies, break-ins or significant security issues that occurred

(g) Total amount of cannabis waste destroyed

Repeal maximum THC concentration to comply with SB 406

7.34.4.8 PRODUCER LICENSING; GENERAL PROVISIONS

~~**L Maximum concentration of THC in concentrates: A licensed non-profit producer shall not sell or otherwise distribute a concentrated cannabis derived product to a qualified patient or primary caregiver that contains greater than seventy percent (70%) THC by weight, unless the qualified patient or primary caregiver presents proof of a valid medical exception granted by the department.**~~

Options for mandatory video recording of cannabis waste destruction

7.34.4.23 MONITORING AND CORRECTIVE ACTIONS:

(A) (8) All licensed producers, approved manufacturers, approved laboratories, and approved couriers shall take a video recording when destroying usable cannabis, cannabis-derived products or cannabis waste. The recording must run continuously from the beginning of the destruction until it is complete. Licensees shall maintain an electronic copy of the recording for a minimum of 90 days and must be made available to the department upon the department's request. All recorded images must clearly and accurately display the time and date. For purposes of this provision, a fixed camera or mobile camera is acceptable.

Licensed is tied to defined premises

7.34.4.8 PRODUCER LICENSING; GENERAL PROVISIONS:

J. Limitation on number of production facilities: A licensed non-profit producer shall conduct its production operations at a single, physical location approved by the department. An additional production facility or facilities may be allowed at the department's discretion if the non-profit producer is approved to grow more than 150 plants. **The cumulative total of plants held at a licensed non-profit producer location(s) shall not exceed the amount allowed for the license by the department.**

Q. Amended license: A licensed producer shall submit to the department an application form for an amended license, and shall obtain approval from the department, at least 30 business days prior to implementing any:

(1) change of location of a qualified patient who also holds a personal production license;

~~(2) change of location of a non-profit producer's production or distribution facilities,~~ change of directors, change of ownership of production or distribution facilities, private entity name, capacity or any physical modification or addition to the facility;

(2) substantial change to a private entity's production plan or distribution plan, including any change to the type(s) of products produced or distributed, the private entity's method(s) of distribution, and security plan.

(3) change of location of a non-profit producer's production or distribution facilities

(a) In addition to any other documentation requested by the department, the non-profit producer shall designate to the department the number of plants to be held at each production facility location.

Fine and Enforcement Schedule

7.34.4.24 DISCIPLINARY ACTIONS AND APPEAL PROCESS:

A. Grounds for disciplinary action: Disciplinary action may be taken against a producer-applicant, a licensed producer, a manufacturer-applicant or approved manufacturer, a laboratory applicant or approved laboratory, or an approved courier or courier-applicant. Disciplinary action may include revocation, suspension, or denial of an application, license, or department approval, and other action **depending on the severity of the violation. The Department may, at its discretion, impose both a fine and another disciplinary action such as license suspension or license revocation.**

In determining disciplinary action to be taken, the department will consider the following factors in addition to the violations enumerated in Paragraph B:

- 1. Nature and severity of the act(s), offenses, or crime(s) under consideration.**
- 2. Actual or potential harm to the public.**
- 3. Actual or potential harm to any patient.**
- 4. Prior disciplinary record.**
- 5. Number and/or variety of current violations.**
- 6. Mitigating evidence.**
- 7. In case of a criminal conviction, compliance with conditions of sentence and/or court-ordered probation.**
- 9. Time passed since the act(s) or offense(s) occurred.**

B. Disciplinary action may be imposed for:

- ~~(1) failure to comply with or satisfy any provision of this rule;~~
- ~~(2) falsification or misrepresentation of any material or information submitted to the department;~~
- ~~(3) failing to allow or impeding a monitoring visit by authorized representatives of the department;~~
- ~~(4) failure to adhere to any acknowledgement, verification, or other representation made to the department;~~
- ~~(5) failure to submit or disclose information required by this rule or otherwise requested by the department;~~
- ~~(6) failure to correct any violation of this rule cited as a result of a review or audit of financial records or other materials;~~
- ~~(7) failure to comply with the department's requested access to premises or materials;~~
- ~~(8) failure to pay a required monetary penalty;~~
- ~~(9) diversion of cannabis or a cannabis derived product, as determined by the department;~~
- ~~(10) threatening or harming a patient, a medical practitioner, or an employee of the department; and~~
- ~~(11) any other basis identified in this rule.~~

(1) Major violations affecting public safety

- a) intentional diversion of cannabis or a cannabis-derived product to the illicit market, as determined by the department;**
- b) threatening or harming a patient, a medical practitioner, or an employee of the department;**
- c) intentionally destroying, damaging, altering, removing or concealing potential evidence of a violation under this rule, attempting to do so or asking or encouraging another person to do so;**
- d) other conduct that shows a willful or reckless disregard for health or safety**

(2) Major violations

- a) failure to pay a required monetary penalty;**
- b) failure to comply with the department's requested access to premises or materials;**
- c) failing to allow or impeding a visit by authorized representatives of the department;**
- d) diversion of cannabis or a cannabis-derived product, as determined by the department;**
- e) falsification or misrepresentation of any material or information submitted to the department;**
- f) failure to adhere to any acknowledgment, verification, or other representation made to the department;**
- g) repeated failure to submit or disclose information required by this rule or otherwise requested by the department;**
- h) failure to correct any violation of this rule cited as a result of a review or audit of financial records or other materials;**
- i) engaging in a deliberate pattern of 2 or more instances of selling useable cannabis, cannabis-derived products or cannabis plants to individuals who are not qualified patients**
- k) deliberately purchasing useable cannabis, cannabis-derived products or cannabis plants from out of state or outside the legal medical cannabis system**
- l) engaging in a deliberate pattern of minor license violations**

m) other conduct that shows a pattern of willful or reckless disregard for sales tax obligations, quality testing requirements, tracking requirements, or other requirements of this rule

n) knowingly providing adulterated useable cannabis or cannabis-derived products to a qualified patient

o) exceeding the plant count limit of the license

(3) Minor violation

a) failure to comply with or satisfy any provision of this rule;

b) failure to provide information requested by the department in the timely fashion

c) failure to take a video recording of the destruction of usable cannabis or cannabis-derived products

d) selling useable cannabis, cannabis-derived products or cannabis plants to individuals who are not qualified patients

e) selling more than the maximum adequate supply allowed under this rule

f) using unauthorized chemicals, pesticides, fungicides, rodenticides, or other substances that may have an adverse effect on the health of consumers or workers.

g) misrepresenting quality testing results, potency or contents of useable cannabis or cannabis-derived products to a qualified patient

h) providing adulterated useable cannabis or cannabis-derived products to a qualified patient

k) failing to observe production plan, distribution plan or security plan submitted to the department

B. Fines: Disciplinary actions against a licensed non-profit producer, approved manufacturer, approved laboratory, or approved courier may include the imposition of monetary penalties, which may be assessed by the department in the amount of:

~~(1) one hundred dollars (\$100) for the first assessed monetary penalty in a calendar year;~~

~~(2) five hundred dollars (\$500) for the second assessed monetary penalty in a calendar year;~~

~~(3) one thousand dollars (\$1,000) for every monetary penalty thereafter assessed in a calendar year.~~

(a) Not more than a maximum amount of fifty thousand (\$50,000) per major violation affecting public safety

(b) Not more than a maximum amount of twenty-five thousand (\$25,000) per other major violation; and

(c) Not more than a maximum amount of five thousand (\$5,000) per minor violation.

Suspension and Revocation language:

C. Disciplinary actions against a licensed non-profit producer, approved manufacturer, approved laboratory, or approved courier may, in addition to the imposition of a monetary fine, include license suspension or revocation ordered by the department based on the severity of the violation. While the department reserves its discretion to levy license suspension or revocation depending on the individual circumstances of the violation, disciplinary action may be imposed according to the following guidelines:

(1) Major violations affecting public safety are grounds for license suspension of a minimum of 15 days or a maximum penalty of license revocation

(2) Major violations are grounds for license suspension of a minimum of 7 days and a maximum penalty of license revocation.

(3) Minor violations are grounds for license suspension of a minimum of 1 day. A licensee with a pattern of repeated minor violations may be considered for license revocation.

Long-Term Policy Recommendations

Due to the short timeframe available to develop the August rule, we recommend that the Medical Cannabis Program address these issues in future rulemaking processes.

- SB 406 Mandates
 - Updated Testing and Labeling Regulations
 - Out-of-state Qualified Patient Recommendation Reciprocity
 - Annual Assessment Report
 - Update Qualified Patient Registry Process
 - Consumption Areas
 - Gifting of Cannabis
 - Medical cannabis on school grounds
- Additional high-level policy issues
 - Update rules to align with current department policies

- Regulatory structure and enforcement policies
- Local licensing
- Public education campaigns
- Medical rigor
- Medical ethics
- Public consumption
- Advertising
- System cohesion and coordination across state departments
- Edibles
- Pesticides
- Cash management
- Diversion across state lines
- Data collection
- Taxes/fees/budget analysis