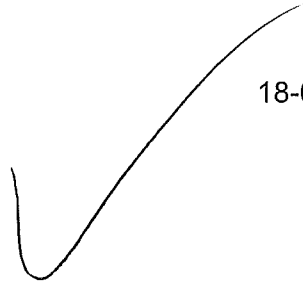




DEC 11 2018

His Worship Fred Eisenberger,  
Mayor, City of Hamilton,  
71 Main Street, 2nd floor,  
Hamilton, ON L8P 4Y5

18-005770-785



Dear Mayor Eisenberger:

I am writing in response to your letters of April 28, 2017, January 5, and August 17, 2018, addressed to the Honourable Ginette Petitpas Taylor, Minister of Health, as well as the Honourable Jane Philpott, former Minister of Health, regarding the legalization and regulation of cannabis. I have been asked to reply to you directly. I sincerely apologize for the delay in responding.

I would like to take this opportunity to share some information about the regulations as they relate to your particular concerns.

I appreciate your concerns about the production of cannabis in homes, whether for medical or non-medical purposes. Health Canada shares those concerns as one of our most important objectives is to protect the public's health and safety. That is why the Government introduced the *Cannabis Act*—a new legal framework that puts in place a comprehensive public health approach to cannabis.

The *Cannabis Act*, along with the *Cannabis Regulations* and the *Industrial Hemp Regulations*, which support the *Cannabis Act*, came into force on October 17, 2018.

Under the *Cannabis Regulations*, the regulatory framework for access to cannabis for medical purposes remains substantively the same as it was under the predecessor regime, the *Access to Cannabis for Medical Purposes Regulations*. Patients can continue to access cannabis for medical purposes from sellers licensed by Health Canada, or they can grow—or designate someone to grow—cannabis for their own medical purposes.

The new Regulations create consistency with rules for cannabis for non-medical purposes, improve patient access, and reduce the risk of abuse of the system. For example, under the *Cannabis Regulations*, the Minister may refuse a registration for personal or designated production for reasons of public health or public safety, including the risk of cannabis being diverted to an illicit market or activity.

For privacy reasons, Health Canada cannot confirm whether an individual or their designated person is registered to produce a limited amount of cannabis for medical purposes at the address you have provided. The Regulations authorize Health Canada to share personal information that is protected under the *Privacy Act* only in the context of an active law enforcement investigation.

However, we can respond in general terms about how the personal/designated production program works and what steps Health Canada takes to address with any potential non-

compliance with regulatory requirements.

In order to apply for personal or designated production for medical purposes, individuals must first obtain written authorization from their health care practitioner in the form of an original medical document, on which the daily authorized amount must be indicated by their health care practitioner.

Health Canada reviews all applications for personal or designated production to ensure that regulatory requirements are met, before a registration certificate is issued.

Individuals are required to submit basic information, including the patient's name and date of birth; the residential, production and storage site addresses; an indication as to whether the cannabis production will take place indoors or outdoors; and signed declarations that the individual and, if applicable, the designated producer, will take all necessary measures to ensure the security of cannabis. Personal and designated producers must not have been convicted of certain relevant offences in the last 10 years.

In the case of outdoor production, the proposed site must not be adjacent to a school, playground, daycare or other public space frequented mainly by persons under 18. If the proposed site for the production of cannabis plants is not the ordinary place of residence of the applicant or of the designated person, if any, and is not owned by the applicant or the designated person, the application must include the given name, surname, address and telephone number of the site owner and a declaration signed by them consenting to production at the site.

The information submitted is rigorously reviewed by Health Canada and the registration is refused if it does not meet the regulatory requirements or contains information that is false or misleading.

All persons authorized to produce a limited amount of cannabis for their own medical purposes must abide by the law and operate at all times within the limits set out when they were registered by Health Canada. Any individuals authorized to produce cannabis who disregard their registration requirements—or any other related legislation—may be subject to law enforcement measures.

These requirements include respecting their plant limits, which are established by the daily dose as authorized by their health care practitioner. These individuals are only authorized to produce and possess cannabis for their own medical purposes (or for the individual they are designated to produce for), and it is illegal for them to share, provide, or sell cannabis to anyone else.

Registered individuals are also required to comply with all relevant provincial/territorial and municipal laws, including local by-laws about zoning, noise, odour, electrical and fire safety, as well as all related inspection and remediation requirements.

When the Department receives a complaint regarding an individual registered to grow cannabis for medical purposes, Health Canada reviews the complaint to determine if action is needed. As part of this review, officials would consider all relevant information from the file 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 letter to remind the individual of their responsibility regarding safety and security, up to and including sending them a notice of intent to cancel their registration.

Health Canada appreciates that, 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 *Criminal Code*, should immediately contact their local law or municipal by-law enforcement authority.

In the context of an investigation, law enforcement does have the ability to enter residences. Registered and designated persons should be prepared to show a copy of their Health Canada-issued documentation to law enforcement, if requested.

Health Canada provides a dedicated service 24 hours a day, seven days a week, to share information with law enforcement in the context of an active investigation. This information includes the status of an individual's registration, general information about the location of the production site, and plant and possession limits.

Health Canada encourages all provinces/territories and municipalities to use the tools at their disposal to ensure that individuals meet all standards and bylaws. In terms of further actions, you may want to refer to *Municipal Guide to Cannabis Legalization*, developed by the Federation of Canadian Municipalities, which provides guidance in areas such as odour and other nuisances. For more on this, see <https://fcm.ca/home/issues/emergency-preparedness-and-response/cannabis-legalization/cannabis-legalization-primer.htm>.

Health Canada will monitor and evaluate patients' reasonable access to cannabis for medical purposes during the implementation of the new law, and re-evaluate the medical access framework within five years.

I would also like to explain how the commercial licensing process works. Under the *Cannabis Regulations*, before submitting an application for a commercial producer's licence, an applicant must provide written notice to local authorities—including the local government, local police force or RCMP detachment responsible for the area, and the local fire authority—to inform them of their intention to submit an application. 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, and other rules.

Before a licence is issued under the Regulations, an application is subject to a rigorous review process, including an assessment of the physical security measures in place at the facility, the proposed Good Production Practices, the record-keeping method and procedures, and personnel security clearance checks.

A commercial licence will only be issued once it has been determined that all information submitted demonstrates compliance with the new Regulations, and the facility has been built.

Once approved, licence holders operate under some of the most stringent controls on the commercial production of cannabis in the world, including unannounced inspections of each licence holder every year, and clear rules around the use of unauthorized pesticides. These controls are backed by a range of available compliance and enforcement measures, including educating the licence holder about any issues of non-compliance, issuing product recalls,

adding terms and conditions to the licence, and suspending or revoking the licence, if warranted.

A licence holder also has an obligation to comply with all applicable provincial/territorial and municipal laws as they relate to, for example, land use, zoning, noise, and pollution.

Regarding Hamilton City Council's proposed approach regarding cost recovery, according to the Federal-Provincial-Territorial Agreement on Cannabis Taxation, provinces and territories will work with municipalities according to shared responsibilities towards legalization. You can find the agreement on the Department of Finance's website at: [https://www.fin.gc.ca/n17/data/17-122\\_1-eng.asp](https://www.fin.gc.ca/n17/data/17-122_1-eng.asp).

Should you wish to discuss the particular challenges that your city has faced, the Director of Medical Access and Specialized Authorizations, Mike McGuire, would be happy to speak with you at your convenience. He can be reached at 613-941-7430 or by email at [Mike.McGuire2@canada.ca](mailto:Mike.McGuire2@canada.ca). Mr. McGuire would also be please to speak with the municipality's law enforcement officials regarding Health Canada registrations for cannabis for medical purposes and to clarify what the registrations do and do not authorize.

We look forward to working with you and the City of Hamilton, as well as other municipalities across Canada, to meet the government's commitment to keep cannabis out of the hands of youth and profits from criminals and organized crime.

Yours sincerely,



Todd Cain  
Director General  
Licensing and Medical Access  
Cannabis Legalization and Regulation Branch  
Health Canada