The Healing Community MEDCo
40 Lisbon Street
Lewiston, Maine 04240
(866) 42-MEDCo

12 December 2021

Medical Marijuana Workgroup,

I appreciate the opportunity to participate in the Medical Marijuana Workgroup and to express my concerns in the form of constructive feedback. My concerns regarding the Testing Proposal are as follows:

I believe my first point is already covered in the Proposal, however I want to touch on it anyway to be sure, since I believe it to be important. Testing for Potency/Cannabinoid Profile, Water Activity, Mold and Mildew, Harmful Microbes, Homogeneity, and Pesticides should only be required at one point throughout the supply chain for each individual product. I believe this is the intended case, as the Testing Proposal states, “harvested marijuana, in its final form, that is available for sale to patients.” However, some of these analytes for which testing is allowed in multiple categories would most logically be tested for only at certain particular steps of the supply chain, including Pesticides, Water Activity, and Homogeneity (if Homogeneity is to be included at all).

Logically, Pesticides should be tested for at the flower stage, as opposed to testing for Pesticides at the point where the product is in its final form. To not do so would only cause problems, as manufactures may purchase flower that has not been tested for Pesticides in order to turn it into concentrates, then turn that concentrate into edibles, then test the product in its final form only to fail the testing requirements for Pesticides. This equates to a large amount of unnecessary work and expense for the products manufacturers to ultimately bear the punishment and expense for mistakes made at the first step of the supply chain. Pesticides testing should logically only be required at the Flower stage, not upon final form. Water Activity should only be tested for at the Flower stage, and even this should be voluntary, not mandatory. From a products manufacturing standpoint, I cannot see any reason why Water Activity should be necessary at the edibles stage for solid/semi-solid and capsules. I am open to learning more about why this should be considered necessary, but with my current knowledge and understanding of the different processes and end products, I am having a hard time seeing how testing for Water Activity in edibles has any effect on public safety.

I also have serious concerns that the regulators are not interpreting the word homogeneity correctly, and that this interpretation has the potential to be changed at any moment if the District Attorney has a closer look at the practice of testing for homogeneity. The testing labs are currently testing for Homogeneity by testing three samples and ensuring that all

three samples are within the same range. I believe this is homogeneity of a *batch* but not homogeneity of a *product.* Homogeneity is defined by Merriam-Webster as “the quality or state of being of a similar kind or of having a uniform structure or composition throughout.” This means that in order for a product to be homogeneous, it would have to be of uniform structure or composition throughout. Here is a non-exhaustive list of products that currently exist on the market that could be considered to be nonhomogeneous:

- Chocolate chip cookies (the chips would make the whole edible non-homogeneous)
- Any cookie, brownie, cake, pastry, granola bar, cereal bar, or other edible containing any chips, chunks, flakes, icing, toppings, or mixings.
- “Diamonds with sauce” (THCA crystalline with terpenes) (the THCA crystalline is of a different composition than the terpenes)
- Caviar (or any other product that is not of uniform structure or composition throughout)
- Moon rocks (flower coated in concentrate and kief)
- Infused and/or coated prerolls

True homogeneity, as pointed out by the application of the definition, should not be considered at all, as it would be far too limiting. I believe this term to be far too restrictive for the cannabis industry based on current widely available and popular products. I believe the better way to meet the intent of the legislation would be to specify either homogeneity of batches (for concentrates), or *homogeneity of servings* (for edibles). Homogeneity of servings would still provide the framework for consumers to be able to reasonably expect the same dosage from serving to serving, which I understand to be the goal of the legislature, while not stifling the creativity and diversity of products in Maine’s medical cannabis industry.

The other major issue I see with the Testing Proposal is the proclaimed “agreement that dispensaries and caregiver retail stores were considered the larger operators of the medical program” and that we should “consider this testing proposal as applying to the harvested marijuana made available to patients through these particular retail avenues.” I don’t have an issue with this pertaining to my company in particular, however I think if the purpose of creating the two classifications of caregivers is to allow the smaller caregivers to continue to participate in the market without having to incur the added expense that the larger caregivers would be incurring (in this instance, mandatory testing) then I believe we are missing the mark. I believe the smaller caregivers would still end up being pushed out of the market in this scenario, because stores would simply opt to carry pre-tested products (i.e. from larger caregivers) instead of having to incur the testing expense themselves for the sole sake of supporting a smaller caregiver while there are plenty of options on the market that would still fill their shelves and at lower prices. The consumer base has largely migrated their purchasing to stores, so if the stores are only buying tested products, the smaller caregivers wouldn’t make it to the end consumer and would ultimately go out of business. If creating another category of caregivers that are exempt from mandatory testing only ends up pushing the testing requirements onto other businesses, then I see no reason to do it at all, as the market (instead of regulations) would then dictate the need for testing from the smaller wholesaling caregivers. If we are trying to make an effort to protect Maine’s cottage cannabis industry and smaller growers, we are doing them a substantial disservice by creating regulations that would ultimately cause them to not be able to compete anyway, albeit through a roundabout way.

It is also my (potentially unconventional, yet well informed) belief that potency testing for flower and concentrates is unnecessary. Before I make this point, I would like to make it clear that I *do* believe potency testing is necessary for edibles, considering edibles are

absorbed differently and a difference in dosage makes a huge difference in effects. However, for concentrates and flower, this is simply not always the case; and I believe the risk to public safety is greater by perpetuating the false expectation that flower or concentrates with lower THC content get you “less high.” If a beginner level consumer were shopping cartridges and decided to go with a live resin cartridge (which has become exceedingly popular) instead of a distillate cartridge due to the live resin cartridge category consistently testing in the 55-75% THC range and the distillate cartridge category consistently testing in the 75-95% range, and if they based this decision on wanting to be “less high,” they would be making a severe mistake, as the broad spectrum nature of the live resin cartridge is invariably going to cause much greater effects than the distillate counterpart. The same can be said for concentrates that are sold by the gram and not in cartridges, and the same can be said for flower. As we as an industry have learned over the past few years, THC content is far from everything. Due to the entourage effect, the overwhelming amount of evidence now shows that it is the *overall cannabinoid and terpene profile* that truly dictate the nature of the high, not just the THC. Now, THC content is certainly still important for a small portion of consumers, particularly microdosers. However, this is not a reason to apply a sweeping regulation across the entire industry. If it’s not made mandatory, some companies will still choose to test for THC, just like some companies in the medical sector choose to do now; leaving plenty of options for microdosers and other consumers that choose to shop based on THC content to continue to do so. By requiring cannabinoid testing, there is no question that prices will go up, thereby decreasing patient access and pushing more people back to the illicit market.

As a proud business owner and resident of Maine, I am grateful for the opportunity to present these concerns, and grateful for your careful consideration. I look forward to continuing to work with the Medical Marijuana Workgroup to further develop a healthy and sustainable framework for the operation of medical marijuana businesses aligned with the modern understanding of how cannabis works.

Best Regards,

Alex McMahan
The Healing Community MEDCo
alex@thcMEDCo.com