DEPARTMENT OF CONSUMER AFFAIRS

BUREAU OF MEDICAL CANNABIS REGULATION

PROPOSITION 64 FAQs

BMCR
BUREAU OF MEDICAL CANNABIS REGULATION

STATE OF CALIFORNIA
dca
DEPARTMENT OF CONSUMER AFFAIRS

On November 8, 2016, a majority of California voters approved Proposition 64, which decriminalizes the cultivation, possession, and use of cannabis for nonmedical purposes. Some quick facts about the initiative:

- The Bureau of Medical Cannabis Regulation is renamed the Bureau of Marijuana Control.
- Cities and counties maintain local control.
- Persons 21 and over may possess and cultivate specific amounts of cannabis for personal use as of November 9, 2016.
- Persons 21 and over may purchase nonmedical cannabis when licensing authorities have enacted regulations and have a framework in place. Licensing will begin in January of 2018.
- All taxes collected are placed in the Marijuana Tax Fund.

Contact the following Department for questions regarding:

Retailers, distributors, and microbusinesses

BMCR BUREAU OF MEDICAL CANNABIS REGULATION

bmcr@dca.ca.gov
(800) 952-5210

Cultivation

cdfa CALIFORNIA DEPARTMENT OF FOOD & AGRICULTURE

CDFA.MCCP@cdfa.ca.gov
(916) 263-0801

Manufacturing and testing

CDPH California Department Of PublicHealth

omcs@cdph.ca.gov
(916) 558-1784

1. WITH THE PASSAGE OF THE INITIATIVE, CAN ANY ADULT 21 AND OVER WALK INTO A DISPENSARY AFTER NOVEMBER 9, 2016, AND PURCHASE CANNABIS?

No. Dispensaries will only be licensed to sell medical cannabis, and will be prohibited from selling non-medical cannabis to individuals without a doctor's recommendation. The initiative calls for licensing authorities to begin accepting applications and issuing licenses in January 2018, at which point any adult 21 and over may purchase non-medical cannabis. The Bureau of Marijuana Control is responsible for licensing dispensaries under the initiative.

2. WILL THE STATE BE ABLE TO MEET THE JANUARY 1, 2018, LICENSING DEADLINE?

The agencies involved are taking appropriate action to meet the deadlines and requirements imposed by the initiative. The basic priorities under the Medical Cannabis Regulation and Safety Act (MCRSA) regarding public and environmental safety remain the same under the initiative.

3. WILL PEOPLE BE ABLE TO SMOKE NON-MEDICAL CANNABIS ANYWHERE?

No. The initiative prohibits consumption of cannabis in a public place unlicensed for such use, including near K-12 schools, on sidewalks, and other areas where children are present.

4. CAN PEOPLE EXPECT TO HAVE THEIR CRIMINAL RECORDS CHANGED?

The purpose and intent of this section of the initiative indicates that it seeks to "[a]uthorize courts to resentence persons who are currently serving a sentence for offenses for which the penalty is reduced by the act, so long as the person does not pose a risk to public safety, and to redesignate or dismiss such offenses from the criminal records of persons who have completed their sentences as set forth in this act."

Health and Safety Code Section 11361.8(a) states that "[a] person currently serving a sentence for a conviction, whether by trial or by open or negotiated plea, who would not have been guilty of an offense, or who would have been guilty of a lesser offense under the Control, Regulate and Tax Adult Use of Marijuana Act had that act been in effect at the time of the offense may petition for a recall or dismissal of sentence before the trial court that entered the judgment of conviction in his or her case to request resentencing or dismissal in accordance with Business and Professions Code Sections 11357, 11358, 11359, 11360, 11362.1, 11362.2, 11362.3, and 11362.4 as those sections have been amended or added by that act."

5. WHAT ABOUT THE FACT THAT CALIFORNIA WILL BE ALLOWING AND REGULATING SOMETHING THAT IS STILL ILLEGAL UNDER FEDERAL LAW?

Although the federal government issued a memorandum in 2013 that outlined the Obama Administration's expectations for state and local governments that enact cannabis related laws, we cannot predict whether or how that guidance might change in the future.

6. HOW WILL THE TRACK AND TRACE PROGRAM WORK FOR NON-MEDICAL CANNABIS?

The California Department of Food and Agriculture will establish the track-and-trace program for medical cannabis and nonmedical cannabis. Track and trace will operate similar to the Medical Cannabis Regulation and Safety Act (MCRSA) requirements. This means the movement of cannabis and cannabis products will be documented throughout the supply chain from cultivation to sale. The system will ensure that if public safety concerns arise, the source can be quickly identified. Additionally, track and trace will be a tool to prevent product grown outside the legal framework from entering the regulated market and regulated product from being diverted to the black market.

7. WILL MY MEDICAL CULTIVATION LICENSE WORK FOR NON-MEDICAL GROWS?

No. Medical cultivation licenses are not valid for producing nonmedical product. However, a licensed medical cultivator could also obtain a nonmedical cultivation license under Business and Professions Code Section 26053, provided the site meets all the requirements for both the Medical Cannabis Regulation and Safety Act (MCRSA) and the initiative. The California Department of Food and Agriculture is responsible for licensing cultivators under the initiative.

8. WILL THERE BE DIFFERENCES ON HOW TO GROW CANNABIS FOR MEDICAL VERSUS NON-MEDICAL?

The California Department of Food and Agriculture is responsible for licensing cultivators under the initiative. Cultivation requirements will generally remain the same for growing cannabis both for medical or nonmedical use. Cannabis products offered for sale will need to be clearly differentiated as medical or nonmedical.

9. WILL THE MEDICAL MARIJUANA CARD PROGRAM GO AWAY?

Although Proposition 64 amends some statutory provisions governing the Medical Marijuana Identification Card (MMIC) program, it does not abolish it. The California Department of Public Health (CDPH) will continue to print identification cards and maintain a registry database for verification of qualified patients and their primary caregivers.

10. WHO REGULATES EDIBLES? (NOT CONSIDERED A FOOD OR A DRUG, PER H&S CODE 109935)

The California Department of Public Health (CDPH) is responsible for regulating the manufacturers of cannabis-infused edibles for both medical and non-medical use.

11. HOW WILL NON-MEDICAL CANNABIS BE KEPT AWAY FROM KIDS?

The initiative includes provisions designed to help keep cannabis away from children, including, but not limited to, marketing restrictions, school buffer zones, child-resistant packaging, and warning labels.

12. WHAT STEPS WILL THE LICENSING AUTHORITIES TAKE TO IMPLEMENT PROPOSITION 64?

The licensing authorities are closely analyzing the initiative as passed to determine how best to regulate both medical and nonmedical use in an expeditious and efficient manner. Proposition 64 requires implementation through California's regulatory process. The licensing authorities intend to take a similar approach with the initiative by involving stakeholders and the public in the regulatory process.

13. HOW WILL PUBLIC SAFETY BE PROTECTED?

Just as with the Medical Cannabis Regulation and Safety Act (MCRSA), licensing authorities will develop regulations for nonmedical use with public safety as a priority. The regulatory program will include licensing requirements and an enforcement component.

14. HOW WILL THE REGULATIONS FOR NON-MEDICAL USE DIFFER FROM REGULATIONS FOR MEDICAL CANNABIS?

All related regulations will be based on the language of that initiative. At the same time, the basic priorities regarding public safety, safe products, and environmental safety remain the same.

15. WHAT HAPPENS TO LICENSE FEES?

Licensing fees will be deposited in each licensing authority's account in the Marijuana Control Fund. Upon appropriation by the Legislature, each licensing authority will use the fees it has collected to perform the licensing authority's duties under the act.

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