COMMERCIAL AND PERSONAL PRODUCTION OF CANNABIS

The *Cannabis Act* and its regulations control the production, distribution, sale, and possession of cannabis in Canada. The following forms of cannabis production are authorized under the Act:

- Commercial cannabis production, which includes a federal licence to cultivate, process and sell cannabis to either the provincial and territorial retail markets, or directly to individuals authorized by their health care practitioner to use cannabis for medical purposes
- Individuals who are authorized to use cannabis for medical purposes by their health care practitioner can register with Health Canada to produce (or have someone produce on their behalf) a limited amount of cannabis for their own medical purposes
- Adults who are 18 years or older can grow up to 4 cannabis plants per residence for personal use from plants and seeds obtained from legal sources

Please see below for information on the first two types of production.

Commercial Cannabis Production

Health Canada issues licences to allow the commercial cultivation, processing and sale of cannabis.

There are stringent controls on the commercial production and sale of cannabis. Before a licence is issued, an application is subject to a rigorous review process, including an assessment of:

- The physical security measures at the site;
- How the applicant will keep records of their activities with cannabis, such as records for tracking sales, product returns and product inventory;
- The processes that will be used for the building and the equipment to help ensure that cannabis meets quality standards appropriate to its intended use; and
- The security profile of key personnel.

Before submitting an application to Health Canada, an applicant must provide written notice to the local authorities (local government, fire authority and police). This notification alerts local authorities to the intentions of the applicant and provides municipalities with the opportunity to verify compliance with local by-laws, fire codes, and other rules.

The notices must include the following:

- Date each notice was sent or provided;
- Name, title and address of senior official;
- Name of applicant;
- Expected date on which the applicant will submit application to Health Canada;
- The class and subclass of the licence being sought;
- The cannabis related activities that are expected to be conducted; and
- The site address.

In order for Health Canada to review a licence application, the Department requires evidence from the applicant that their site includes a fully built facility that meets the regulatory requirements.

Prior to obtaining a licence under the *Cannabis Act*, applicants intending to cultivate cannabis indoors must also demonstrate to Health Canada that they have an air filtration system to prevent the escape of odours.

Once the licence is issued, Health Canada has a range of compliance and enforcement tools to verify compliance with the *Cannabis Regulations*, including regular inspections. These inspections are conducted to ensure that cannabis is produced, sold, and distributed in accordance with the *Cannabis Regulations*.

A licence holder also has an obligation to comply with all applicable provincial/territorial and municipal laws. It is outside of Health Canada's jurisdiction to enforce provincial or municipal legislation. If there are concerns that a licence holder is in contravention of provincial or municipal legislation, then the appropriate level of government should be contacted.

A list of federally licensed production facilities is available on the Licensed cultivators, processors and sellers of cannabis under the *Cannabis Act* page of Health Canada's website.

Cannabis for Medical Purposes

Successive court decisions established the right of individuals to have reasonable access to cannabis for medical purposes.

In response to these court decisions, a legal framework was established that gives Canadians three ways to access cannabis for medical purposes, with the authorization of their health care practitioner:

1. purchase quality-controlled cannabis from a wide variety of federally licensed sellers inspected by Health Canada;
2. produce a limited amount of cannabis for their own medical purposes; or
3. designate someone to produce it for them.

Individuals who use cannabis for medical purposes can also purchase the same cannabis products without an authorization from provincial and territorial cannabis retailers.

Differences between medical and non-medical cannabis

There is no difference between cannabis products that can be purchased for medical or non-medical purposes. All legal cannabis products are produced by federally licensed cannabis processors. The difference between the two lies in how they can be obtained.

While non-medical customers can only purchase cannabis through provincially or territorially authorized retailers (including online stores), individuals with the authorization of their health care practitioner can also register with holders of a sales for medical purposes licence to purchase products directly and have them delivered by mail or courier.

Cannabis products available produced by federally licensed cannabis processors or sold for medical purposes have not been subject to a comprehensive review of safety, efficacy or quality and are not approved therapeutic substances.

To obtain authorization to market drugs with health claims in Canada, drug manufacturers must submit evidence, which includes information on the effectiveness, dosage, route of administration contraindications, side effects, and quality of a drug. If Health Canada concludes that the overall benefits of the drug outweigh its risks, the product will be authorized for sale in Canada and a Drug Identification Number (DIN) will be assigned and subsequently be authorized for sale as an approved therapeutic substance.

Authorization from a Healthcare Practitioner

Individuals must first obtain written authorization from their health care practitioner to apply to Health Canada to produce a limited amount of cannabis for their medical purpose. Health Canada does not play a role in determining whether cannabis is appropriate for a patient. A health care practitioner will make this decision through a discussion with their patient and will indicate the daily amount. The number of plants that an individual is permitted to grow is based on a formula that takes into account both the individual's daily dose and the average yield of a plant under certain growing conditions.

The regulation of health care practitioners and the practice of medicine is the responsibility of provinces and territories, professional colleges or law enforcement, as applicable. Any questions about the conduct of health care practitioners, including nurse practitioners, should be addressed to provincial or territorial professional colleges, which regulate the practice of medicine and nursing.

A number of the provincial and territorial regulatory bodies have developed guidance for their members on authorizing cannabis for medical purposes. In addition, the College of Family

Physicians of Canada (CFPC) has published a guide entitled Authorizing Dried Cannabis (Medical Marijuana) for Chronic Pain or Anxiety: Preliminary Guidance.

Health Canada has published a document entitled Information for Health Care Professionals: Cannabis (marihuana, marijuana) and the cannabinoids to help patients and health care practitioners make informed decisions about the benefits and risks of using cannabis for medical purposes, including information on dosage amounts.

Cannabis research is fundamental to understanding the health and safety effects of cannabis use. The Government of Canada and the Canadian Institutes of Health Research are investing in this research, and the results are being shared with national and provincial medical regulatory authorities to help support health care practitioners in their decision-making with respect to cannabis for medical purposes.

Personal and designated production of cannabis for medical purposes

Health Canada reviews all applications to ensure that the regulatory requirements are met, before a registration certificate is issued. The information in an application includes:

- an original medical document which indicates the daily amount of cannabis authorized by a health care practitioner;
- 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 (i.e., in the case of outdoor production, the proposed site must not be adjacent to a school, playground, daycare or other public space frequented mainly be persons under the age of 18);
- signed declarations that the individual (and, if applicable, the designated producer) will take all necessary measures to ensure the security of cannabis;
- property owner's consent, if production takes place at location other than the individual's ordinary place of residence; and
- confirmation that they have not been convicted of certain relevant offences in the last 10 years.

If these regulatory requirements are not met, Health Canada must refuse to issue a registration. Health Canada may also refuse to issue a registration where the registration is likely to create a risk to public health or public safety.

The number of plants any person may be authorized to grow for their own medical purposes is determined by a formula that takes into account both the daily amount (i.e. dose) of cannabis authorized by the health care practitioner, and the average yield of a plant under normal growing conditions. No person is permitted to grow in excess of the number of plants specified by Health Canada on their registration document.

It is important to note that:

- A registration certificate is valid for a maximum of one year.
- All persons authorized to produce a limited amount of cannabis for medical purposes must abide by the law and operate at all times within the limits set out in their registration.
- 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 sell the cannabis they have produced to anyone else.
- Individuals who do not comply with their registration requirements—or any other relevant legislation—may be subject to compliance and enforcement measures, including referral to law enforcement.
- Individuals are required to comply with all relevant provincial/territorial and municipal laws, including local by-laws about zoning, electrical and fire safety, as well as all related inspection and remediation requirements.

Health Canada has published recommended safety and security considerations for individuals who are producing cannabis for their own medical purposes. The Information bulletin: safety and security considerations when producing cannabis for your own medical purposes includes information related to production, storage and disposal of cannabis to reduce the risks to health and safety.

Provincial/territorial and local laws and other requirements

Health Canada encourages all provinces/territories and municipalities to use the tools at their disposal to ensure that individuals meet all standards and bylaws, including local by-laws about zoning, noise, and odour. Municipalities could, for example, require building permits and inspections of electrical work in production sites.

Municipalities may also want 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.

Complaints Related to Cannabis

Complaints or concerns regarding a cannabis site, product, service, accessory, promotion, or other aspects of laws and regulations can be reported to Health Canada using the on-line Cannabis Reporting Form.

When Health Canada receives a complaint regarding an individual registered to grow cannabis for medical purposes, it reviews the complaint to determine if there have been breaches of regulatory requirements.

If non-compliance with the regulations is found, Health Canada has a range of enforcement tools at its disposal, from sending a compliance letter with a reminder of their legal obligations up to and including sending them a notice of intent to cancel their registration.

Illegal Activities with Cannabis

As in any regulatory framework, there will be instances where individuals choose to operate outside of the law. If you suspect that an individual is violating a law, including the *Cannabis Act* and the *Criminal Code*, you should contact your local law or municipal by-law enforcement authority. In the context of an investigation, law enforcement has the ability to enter residences and any production sites. Registered and designated persons should be prepared to show a copy of their Health Canada issued documentation to law enforcement, if requested.

Health Canada supports law enforcement representatives by providing a dedicated service 24 hours a day and seven days a week to confirm the amount of cannabis that specific individuals under investigation are authorized to possess or produce for medical purposes.

In addition, if Health Canada confirms that there is not a registration for personal or designated production at an address provided to the Department, Health Canada will share this information with local law enforcement.