

# AMO Feedback on Health Canada Draft guidance on personal production of cannabis for medical purposes

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## Introduction

The Association of Municipalities of Ontario's (AMO) Personal and Designated Medical Cannabis Grows Staff Working Group has been established to provide input from a municipal perspective on the impact of personal and designated medical cannabis grows in Ontario communities. Municipal governments have been expressing concerns over designated medical cannabis production sites, particularly regarding the health and safety risks of production sites; lack of adherence to local planning requirements, zoning, building code standards, and permit requirements; and diversion of cannabis grown for medical purposes into the illicit market.

AMO is encouraged to see an examination of the existing medical cannabis regime taking place at Health Canada, however, there are remaining concerns that this draft guidance does not adequately address. The following sections outline additional factors of municipal concern regarding the draft guidance. AMO looks forward to continued engagement to ensure that medical cannabis can be safely and effectively provided while ensuring public health and safety concerns are addressed.

## Registering with Health Canada to produce cannabis for medical purposes

The lack of municipal input into the licensing and zoning of designated medical cannabis production sites has been a significant concern of AMO members. The draft guidelines mention that the registered and designated person “remains responsible for complying with all relevant provincial/territorial and municipal laws including building codes and local bylaws about zoning, electrical safety and fire safety, together with all related inspection and remediation requirements and orders”. However, in practice, there have been many instances where designated producers across the province have not been complying with the local bylaws and municipalities have had little power for inspection and enforcement.

One way to address this would be for Health Canada to ensure that registrations are in compliance with local zoning requirements and other bylaws or for Health Canada to require that applicants provide a letter of no objection from the municipality before an application can be approved. This preauthorization may help address some of the most pressing concerns facing municipal governments that are trying to address issues caused by designated medical cannabis production in their communities.

It would also be helpful for the regulations to prescribe stricter requirements on environmental concerns related to water and energy use and odor control in order to ensure the health and safety of the environment is also considered in decision-making on license applications. Municipalities are often the jurisdiction left feeling the impacts when environmental concerns (including contaminated water runoff, lack of odor control, and excessive energy consumption) arise. Amending the language in the draft guidelines to include requirements around environmental concerns rather than just suggestions would help reduce the negative impacts of personal and designated production sites that are not adhering to the environmental protection measures they should be taking.

## Authorities to refuse to issue, renew, amend or revoke a registration

In order for public health and public safety to be protected, municipal governments would like to see more regular and frequent inspections of sites, and for the data collected during these inspections to be aggregated and published publicly. This would help foster collaboration between Health Canada and municipal governments in working together to ensure compliance and address public health and safety issues.

The opportunity for municipal bylaw enforcement officers to be involved in Health Canada inspections would also help to ensure compliance with local bylaws and presents further opportunities for collaboration between Health Canada and municipal governments. If during an inspection, a site is found to not be in compliance with municipal bylaws, this

may be assessed on the basis of public health and safety. Penalties (including the revocation of registrations) may be enforced by both Health Canada and the municipality in order to ensure that the site does not continue to operate in violation of the Health Canada regulations and municipal bylaws. Health Canada and municipalities must work together to ensure that if designated producers do not follow regulations or produce in excess of their licenses, that action will be taken to ensure that there are consequences to non-compliance.

## Factors which may be considered in assessing the risk to public health or public safety

Municipal governments have expressed concerns around excessive prescriptions of medical cannabis, as this may result in cannabis being distributed through illicit markets. Municipal governments agree that the amount of daily authorized cannabis and the status of the prescribing health care practitioner are important factors to include when considering the risk to public health and safety. Information about excessive prescription amounts or related health care provider information should be published and/or shared with municipal governments in order to assist in monitoring and enforcement.

While these factors are encouraging to see, currently, the factors listed in the draft guidelines do not include non-compliance or a history of non-compliance with municipal planning requirements, zoning, building code standards, and permit requirements. The draft guidelines state that “other relevant factors could be considered” and that “information related to these and other factors not listed could be obtained from a wide variety of sources”. The flexibility this allows may provide some benefits, however ultimately these factors do not adequately account for non-compliance with important municipal requirements. These factors should also be considered along with the factors listed in the draft guidelines to evaluate whether the application should be refused, revoked or amended.

Municipal governments also do not have access to sufficient information regarding the licenses, thus making it extremely difficult to enforce regulations, even though they are responsible for doing so. There must be a more effective and streamlined process for ensuring that operations comply with local bylaws, codes, and standards in which Health Canada helps to support enforcement alongside municipalities. Health Canada and municipal governments must collaborate more effectively to share information and support the capacity of municipal governments to ensure that medical cannabis is being produced appropriately and safely within communities.

Part of this process may include Health Canada working with AMO and other groups to develop and provide information resources to municipal governments on their roles,

responsibilities, and opportunities for ensuring medical cannabis production in their communities respects all health and safety guidelines and regulations. Often information on what municipal governments can do or how they can report non-compliant producers or other concerns to Health Canada is unclear. Health Canada can work more effectively with municipal governments as partners by providing resources that municipal governments can easily access to outline the most appropriate ways to report and communicate concerns and enforce regulations where appropriate. AMO is willing to work with Health Canada to help communicate these new resources to our members to ensure Ontario municipalities have access to this information.

## Conclusion

Municipal governments are looking to work more closely with Health Canada on addressing violations in personal and designated medical cannabis production. These draft guidelines offer a promising opportunity for addressing prominent concerns AMO members are seeing in their municipalities, however preauthorization to ensure compliance with zoning bylaws, environmental protection measures, sharing aggregated information, joint inspections, providing information about excessive prescribing, and consideration of non-compliance with municipal bylaws and codes when assessing health and public safety impacts would go a long way to making these guidelines more effective in preventing the infractions municipal governments across Ontario are seeing in their jurisdictions. AMO looks forward to continued consultation and collaboration on this topic with Health Canada.