



Maryland Medical Cannabis Commission Responses to Stakeholder Comments on Fine Schedule

Green Leaf Medical, LLC

- **Comment:** Under COMAR 10.62.23 Processor regulations a \$10,000 fine for many provisions in this chapter appear excessive, especially when some violations may be the result of a record-keeping error.
- **MMCC Response:** After further consideration of the fines associated with COMAR 10.62.23, MMCC made the following reductions in the fine amounts:
 - COMAR 10.62.23.02A(1) – reduced from \$10,000 to \$5,000.
 - COMAR 10.62.23.02(2)(a) – reduced from \$10,000 to \$5,000.
 - COMAR 10.62.23.02A(2)(b) – reduced from \$10,000 to \$3,000.
 - COMAR 10.62.23.02A(2)(c) – reduced from \$10,000 to \$7,000.
 - COMAR 10.62.23.02A(3) – reduced from \$10,000 to \$5,000.
 - COMAR 10.62.23.02A(4) – reduced from \$10,000 to \$7,000.
- **Comment:** There appears to be incongruity between similar violations across the different license types. One example is violations relating to standard operating procedures under 10.62.11.02 \$5,000; 10.62.23.02A(1) \$10,000; and 10.62.28.02A(1) \$2,000.
- **MMCC Response:** MMCC agrees that there should be parity in the fines associated with each of these violations and has amended the fines for each to be \$5,000.
- **Comment:** \$10,000 fine for 10.62.30.03D(1) is especially troublesome given that the current electronic allotment calculation and integration of third-party transaction uploads are not 100% reliable. There are multiple examples of dispensary overselling to a patient due to the delayed posting of a purchase at another dispensary that did not promptly register, for whatever reason, with the metric database.
- **MMCC Response:** MMCC amended the fine to \$3,000. MMCC continues to work with METRC and POS vendors, but must maintain the integrity of the 30-day patient allotment regulations.

Theresam Farm, LLC

- **Comment:** The draft fine schedule is comprehensive, but not a sufficient deterrent to keep licensees from violating regulations. In addition to levying fines, the violating parties should be closed. For example, in 2019, a grower sprayed chemical on the medical cannabis, making the product unfit for consumption and was fined \$150,000, but was allowed to resume growing after a period.
- **MMCC Response:** Regulation .01 and .02 of COMAR 10.62.34 *Discipline and Enforcement* already authorizes MMCC to deny, suspend, or revoke a license or registration if a licensee, registrant, agent, or employee: 1) diverts or contaminates

medical cannabis or otherwise risks the health of a patient or any other individual or 2) substantially deviates or demonstrates a pattern of deviation from the standard operating procedures or the terms set forth in the license. MMCC added these provisions to the fine chart. MMCC also added additional provisions under COMAR 10.62.34 to the fine chart, all of which already have penalties that are specified in regulation.

Herbiculture

- **Comment:** COMAR 10.62.26.03C – A prospective registered dispensary agent may not be registered by the MMCC if the prospective registered dispensary agent has ever been convicted of a felony drug offense, except as provided in Health-General Article §13-3308(d), Annotated Code of Maryland. \$1,000 1-10 days; \$2,000 11-30 days; \$5,000 >30 days.
Q. Who pays this fee and for what activity?
- **MMCC Response:** No change is needed. The dispensary agent would be responsible for paying the fine if a registered dispensary agent has been convicted of the prohibited felony drug offense.
- **Comment:** COMAR 10.62.27.07F states that recordings of security video surveillance shall be retained for a minimum of 30 calendar days. \$2,000 fine.
Q. Should this be 90 calendar days instead of 30 days?
- **MMCC Response:** Correction made. The fine chart has been revised to 90 calendar day minimum for this retention period.
- **Comment:** COMAR 10.62.30.03A A registered dispensary agent shall dispense medical cannabis only to a qualifying patient or caregiver who has presented a Commission-issued patient or caregiver identification card. \$5,000 fine.
Q. This is an excessive amount for something in which we currently don't have a system in place. Not all patients have Commission-issued ID cards.
- **MMCC Response:** No change to the fine chart was made. After a patient or caregiver applies for an ID card to obtain medical cannabis, MMCC will immediately send an email to the patient or caregiver with confirmation that they have obtained the ID card. The patient or caregiver can use the ID card to purchase medical cannabis until the ID arrives in the mail.
- **Comment:** COMAR 10.62.30.04C Before any delivery of medical cannabis, a dispensary agent shall query the Commission data network and verify that: 1) The qualifying patient or caregiver is currently registered; 2) A certifying physician issued a valid written certification to the qualified patient; and 3) The amount of medical cannabis requested does not exceed the 30-day supply.
\$1,000 fine. Licensees are not provided with a system to ensure compliance. Unfair to assign fines when we are not given a way to stay compliant (exceeding a 30-day supply).
- **MMCC Response:** The fine amount was changed to \$3,000 to be in parity with a similar 30-day supply provision under COMAR 10.62.30.03D(1). MMCC continues to work with METRC and POS vendors, but must maintain the integrity of the 30-day patient allotment regulations.

- **Comment:** COMAR 10.62.30.04F A licensee or registrant may only deliver medical cannabis to a private home or residence, or a medical facility where the qualifying patient is receiving in-patient treatment.
\$10,000 fine. Excessive fine! Currently dispensaries can utilize 3rd party delivery companies approved by MMCC for deliveries and they are not dispensary agents. This fine seems out of place and outdated.
- **MMCC Response:** No change was made. This \$10,000 fine is needed to prevent diversion and protect public safety while medical cannabis is in transport.
- **Comment:** COMAR 10.62.30.06B The qualifying patient or caregiver shall sign a receipt for the medical cannabis.
\$1,000 per sale. Excessive and unnecessary. Dispensaries can face debilitating fines for a simple mistake or technical difficulty. COMAR is not clear on whether dispensaries are required to keep a signed copy of the receipt. Prior to medical cannabis being dispensed to a patient, dispensary agents go through a multitude of checks to ensure that the patient is currently registered, and the information is accurate. What does a signed receipt accomplish, and why is the fine this high, without a cap? Dispensaries may be charged upwards of \$300,000 if they were to lose signed receipts from one day. How will this be enforce?
- **MMCC Response:** The purpose of this penalty is to mitigate the risk of diversion. MMCC agrees to lower the fine to \$100 per sale, not to exceed \$500 per day.

Trilogy Wellness and I Love Compliance

- **Comment:** We have concerns about the process to ensure a fair opportunity to put corrective actions in place when violations are not egregious in nature. For example, both the FDA and health departments give businesses the opportunity to take corrective actions in certain instances and fines are only imposed as a last resort or for refusal to comply with suggested actions in a timely manner. For some less egregious or negligent violations we believe there should be the opportunity to put a corrective action plan in place.
- **MMCC Response:** No change is needed. COMAR 10.62.33.08 authorizes that an inspection report that identifies violations may provide for demands for corrective action. Within 10 business days from the delivery of an inspection report, the inspected entity shall: (1) Respond in writing to every demand for corrective action; and (2) Set forth the plan for corrective action to be taken and the timetable for correction.

I Love Compliance

- **Comment:** COMAR 10.62.09.07B – The licensee shall retain training materials and attendance records and make the training materials available for inspection by the Commission.
Q. Is it acceptable to have these documents stored digitally and not on physically printed out copies?
- **MMCC Response:** Yes, digital storage only is acceptable, but the documents must be immediately available for inspection if requested by MMCC.
- **Comment:** COMAR 10.62.09.08 A. Each registered grower agent shall declare in

writing that the registered grower agent will adhere to the State alcohol and drug free workplace policy, as identified in COMAR 21.11.08.03. B. The licensee shall retain the declaration in a registered grower agent's personnel record.

Q. Is electronic signature an acceptable form of an attestation?

- **MMCC Response:** Yes, electronic signature is acceptable.
- **Comment:** COMAR 10.62.10.07E The storage of all recordings of security video surveillance shall be: (1) Access-limited; (2) Secured by a security alarm system that is independent of the main premises security alarm system; (3) In a format that can be easily accessed for investigational purposes; and (4) Retained for a minimum of 90 calendar days.

Q. Is there still a requirement to store offsite?

- **MMCC Response:** Requiring off-site location for the storage of the video surveillance recordings was repealed, effective May 18, 2020.
- **Comment:** COMAR 10.62.10.07E(4) The storage of all recordings of security video surveillance shall be: (4) Retained for a minimum of 90 calendar days.

Q. Should this state a minimum of 90 days?

- **MMCC Response:** Yes, the recordings of the security video surveillance shall be retained for 90 days. On May 18, 2020, this regulation was amended to require that the surveillance be retained for 90 not 30 days. MMCC updated the fine chart to reflect this change.
- **Comment:** COMAR 10.62.10.08A(1) When a visitor is admitted to a non-public area of the premises of a licensee, a registered grower agent shall: (1) Log the visitor in and out.

Q. Is it acceptable to have these documents stored digitally and not on physical printed out copies?

- **MMCC Response:** Yes, digital storage only is acceptable, but the documents must be immediately available for inspection if requested by MMCC.

- **Comment:** COMAR 10.62.10.08C The licensee shall maintain a log of all visitors to non-public area for 2 years.

Q. Is it acceptable to have these documents stored digitally and not on physical printed out copies?

- **MMCC Response:** Yes, digital storage only is acceptable, but the documents must be immediately available for inspection if requested by MMCC.

- **Comment:** COMAR 10.62.11.04B A licensee shall maintain cleaning and equipment maintenance logs.

Q. Is it acceptable to have these documents stored digitally and not on physical printed out copies?

- **MMCC Response:** Yes, digital storage only is acceptable, but the documents must be immediately available for inspection if requested by MMCC.

- **Comment:** COMAR 10.62.20.07B The licensee shall retain training materials and

attendance records and make the training materials available for inspection by the Commission.

Q. Is it acceptable to have these documents stored digitally and not on physical printed out copies?

- **MMCC Response:** Yes, digital storage only is acceptable, but the documents must be immediately available for inspection if requested by MMCC.

- **Comment:** COMAR 10.62.20.08A A registered processor agent shall declare in writing that the registered processor agent shall adhere to the State alcohol and drug free workplace policy as identified in COMAR 21.11.08.03.

Q. Is electronic signature acceptable and is it acceptable to have these documents stored digitally and not on physical printed out copies?

- **MMCC Response:** Yes, electronic signature and digital storage of these documents is acceptable.

- **Comment:** COMAR 10.62.21.06E Recordings of security video surveillance shall be: (1) Access - limited; (2) Secured by a security alarm system that is independent of the main premises security alarm system; (3) In a format that can be easily accessed for investigational purposes; and (4) Retained for a minimum of 90 calendar days.

Q. Is off site location still a requirement?

- **MMCC Response:** Requiring off-site location for the storage of the video surveillance recordings was repealed, effective May 18, 2020.

- **Comment:** COMAR 10.62.21.06E(4) Recordings of security video surveillance shall be: (4) Retained for a minimum of 90 days.

Q. Should this state a minimum of 90 days?

- **MMCC Response:** Yes, the recordings of the security video surveillance shall be retained for 90 days. On May 18, 2020, this regulation was amended to require that the surveillance be retained for 90 not 30 days. MMCC updated the fine chart to reflect this change.

- **Comment:** COMAR 10.62.21.07A(1) When a visitor is admitted to a non-public area of the premises of a licensee, a registered processor agent shall: (1) Log the visitor in and out.

Q. Is it acceptable to have these documents stored digitally and not on physical printed out copies?

MMCC Response: Yes, digital storage only is acceptable, but the documents must be immediately available for inspection if requested by MMCC.

- **Comment:** COMAR 10.62.22.03G The transportation agent shall provide the completed electronic manifest for the shipment to the receiving licensee.

Q. Would MMCC be amenable to requiring that records can be stored digitally but have to be accessible?

- **MMCC Response:** Yes, it is acceptable for these records to be stored digitally as long as they are made accessible

- **Comment:** COMAR 10.62.27.04C Other than while the dispensary is open for business and 1 hour before and 1 hour after, the inventory of medical cannabis shall be stored in the secure room.

Q. If the medical cannabis is in the operations area and still secure, it be acceptable to be outside of the secure room? Many times, inventory or other things with product can be done for prepping, and many clients do not have room in the secure room. This would help when we want to do full inventory audits and bring in more people.

• **MMCC Response:** No, this would require a regulatory change.
- **Comment:** COMAR 10.62.27.07E Recordings of security video surveillance shall be: (1) Access - limited; (2) Secured by a security alarm system that is independent of the main premises security alarm system; (3) In a format that can be easily accessed for investigational purposes; and (4) Retained for a minimum of 90 days.

Q. Is off site location still a requirement?

• **MMCC Response:** No, requiring off-site location for the storage of the video surveillance recordings was repealed, effective May 18, 2020.
- **Comment:** COMAR 10.62.27.07E(4) Recordings of security video surveillance shall be: (4) Retained for a minimum of 90 days.

Q. Should this state a minimum of 90 days?

MMCC Response: Yes, the recordings of the security video surveillance shall be retained for 90 days. On May 18, 2020, this regulation was amended to require that the surveillance be retained for 90 not 30 days. MMCC updated the fine chart to reflect this change.
- **Comment:** COMAR 10.62.27.08G All medical cannabis, other than being displayed, being processed, or being dispensed during business hours, shall be kept in a secure room.

Q. As previously indicated above, we would like the ability to bring product in the operations zone, where the secure room is located, before the hour. It is still a secure area.

• **MMCC Response:** No, this would require a regulatory change.
- **Comment:** COMAR 10.62.28.02B A copy of the standard operating procedure shall be readily available on site for inspection by the Commission.

Q.(1) Is it acceptable to have these documents stored digitally and not on physical printed out copies?

• **MMCC Response:** Yes, digital storage is acceptable, but the documents must be immediately available for inspection if requested by the MMCC.

Q.(2) Why is the fine \$3,000 when the fine in COMAR 10.62.22.02B for a similar offense is \$2,000?

• **MMCC Response:** MMCC agrees that there should be parity in the fines for both COMAR 10.62.28.02B and 10.62.22.02. MMCC amended the Fine Chart to reflect a \$3,000 fine for violations of each of these regulations.
- **Comment:** COMAR 10.62.28.03G The transportation agent shall provide the completed

electronic manifest to the shipping licensee.

We would like the ability to have the copy be digital or in paper format.

- **MMCC Response:** Either digital or paper format is acceptable.

- **Comment:** COMAR 10.62.30.01 A dispensary shall notify the Commission that a qualifying patient or caregiver has presented a written certification at that dispensary or has requested a delivery based upon a written certification.
Q. What form is the notification? Is a record in METRC acceptable if a point of sale (POS) system is able to send information stating that it is a delivery?
- **MMCC Response:** The Maryland Medical Cannabis Commission (MMCC) considers the accurate recording of the sale in METRC via the licensee's POS to satisfy the requirements of COMAR 10.62.30.01.

- **Comment:** COMAR 10.62.30.06B The qualifying patient or caregiver shall sign a receipt for the medical cannabis.
Q. Some patients refuse to sign the receipt, so we have put refused to sign on receipt, or some sign with just an X and we have even had them sign with explicit words. When MMCC reviews receipts will that be acceptable as a signature? Or are we supposed to refuse the sale if they do not want to sign?
- **MMCC Response:** No, that is not acceptable signature. The sale should be refused if the patient or caregiver do not sign a receipt for the medical cannabis.

- **Comment:** COMAR 10.62.30.06C – The registered agent and the qualifying patient or caregiver shall each retain a copy of the receipt.
Q. Many clients are keeping copies of the receipts, but some of the receipt paper starts to deteriorate after time where some parts may be unreadable, is that okay? Also, is it alright for the dispensary to scan in the receipts in electronic format?
- **MMCC Response:** To adhere to this requirement, the receipt must be readable. It is acceptable for the dispensary to scan the receipts in an electronic format.