

**MINISTRY OF JUSTICE  
POLICING AND SECURITY BRANCH  
POLICE SERVICES DIVISION  
BRIEFING NOTE**

**PREPARED FOR:** Honourable Suzanne Anton  
Attorney General and Minister of Justice  
**FOR INFORMATION**

**ISSUE:** Repeal of the Federal *Medical Marihuana Access Regulation* on March 31, 2014  
and transition to new *Marihuana for Medical Purposes Regulation*

**BACKGROUND:**

- Under the existing *Marihuana Medical Access Regulations* (MMAR) there are three types of licences: authorization for individuals to possess marijuana for medical purposes, personal use production, and designated person production. As of July 29, 2013 there were 13,897 Personal Use Production Licences and 2,691 Designated Person Production Licences, for a total of 16,588 medical marijuana production licences in BC, with the majority of these production operations occurring within residential homes.
- Due to many concerns related to the MMAR, the federal government has created a new regulatory regime - the *Marihuana for Medical Purposes Regulation* (MMPR) – which will phase out the existing production licenses and introduce a system of commercial production. Commercial production of marijuana for medical purposes under the proposed MMPR is intended to reduce the risks to public health, security, and safety of citizens; and will require licenced producers to notify local governments, police and fire of the location of the commercial production facilities to help ensure that the operations and facilities are compliant with federal and provincial legislation and local bylaws.
- As of October 1, 2013, Health Canada will no longer be receiving applications for new MMAR production licences. On March 31, 2014, all production licences issued under the MMAR will expire. Police in BC are concerned that many of these operations will continue to grow marijuana after their MMAR licence expires. Exacerbating this issue is the fact that Health Canada, citing privacy concerns, does not intend to disclose the addresses of former licenced grow operations once they are no longer permitted to legally grow marijuana.
- While Ministry officials had provided a written submission to Health Canada on the safety and security concerns relating to the transition to the new program in British Columbia, federal officials have not been forthcoming with details on their transition planning to the new regime.

**DISCUSSION:**

- During the consultation period for the MMPR, Ministry of Justice staff (Police Services Division) worked with BC Ministry of Health officials to ensure public safety and police concerns with regard to the MMPR were raised. However, while the final MMPR published in Canada Gazette Part 2 offers improvements over the former MMAR, there remain public safety and security concerns that have not been addressed.

These include:

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s.13, s.15

- There is need for two-way information sharing between Health Canada and local governments, fire, and police to ensure that any criminal or safety concerns uncovered during inspection are communicated to the relevant body for follow-up.
- There should be a requirement for producers to show proof of local government permit(s) to Health Canada prior to being given a production license as this would ensure that the production facility is in accordance with local building, safety and electrical standards, and/or zoning or other bylaws.

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- In August 2013, Police Services Division began working with local Health Canada staff to identify the needs of police agencies regarding information on the new MMPR program.

s.13, s.15

Further discussion is underway between the RCMP, Health Canada, and Police Services Division staff to identify opportunities to mitigate the effects of the federal changes on law enforcement agencies in BC.

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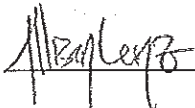
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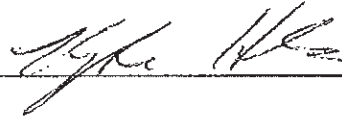
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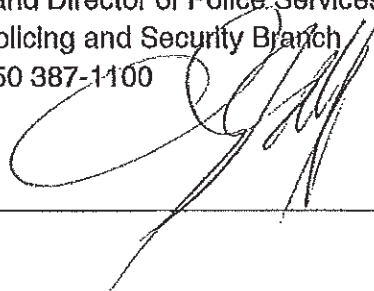
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Clayton Pecknold  
Assistant Deputy Minister  
and Director of Police Services  
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## BC Provincial MGO Working Group

### Response to Proposed Marihuana for Medical Purposes Regulations

(The comments to Health Canada from the review of the draft regulation in Canada Gazette Part 1 are found in black text below; the assessment of whether the comments were addressed in the final regulation in Canada Gazette Part 2, are found in red text.)

The following is submitted on behalf of the BC Provincial MGO Working Group as a response to consultation on the proposed Marihuana for Medical Purposes Regulations (MMPR). The Working Group was established in July 2011, with a mandate to develop strategies to eliminate, disrupt or otherwise mitigate the harmful effects of unsafe marijuana grow operations and illicit drug production operations through a collaborative stakeholder approach to enhance public safety. The Working Group is co-chaired by BC Ministry of Justice staff and the RCMP; and is comprised of 35 stakeholders from police, fire, hydro, real estate, municipalities, first nations, universities, and the federal and provincial government.

*On 26 February 2013 the Marijuana Grow-Op Working Group (MGO WG) sent a letter to Health Canada as well as a four page document outlining concerns with the MMPR. The MGO WG identified six main areas of concern: audits and inspections of producers; communication between Health Canada and local authorities (e.g., municipalities, police, fire); licence requirements for producers; security of production facilities and marijuana produced; the role of law enforcement in the MMPR; and the lack of a clear transition plan. These concerns were submitted as part of the consultation period for the proposed Marihuana for Medical Purposes Regulations (MMPR).*

*After the consultation period and the review of submissions by Health Canada, on 19 June 2013, the MMPR were published in Canada Gazette. Few of the concerns of the working group have been addressed in the final MMPR. The MMAR will be repealed on 31 March 2014. As of 30 September 2013, new Personal Use Production Licences and Designated Person Production Licences will no longer be issued and existing licence holders will not be able to apply to change the location of their licence.*

#### Audits & Inspections

The Working Group supports the conducting of audits and inspections on licensees under the MMPR and further encourages Health Canada to consider the following:

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s.13

*This does not appear to be addressed in the final regulation.*

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s.13

*This does not appear to be addressed in the final regulation.*

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s.13

*This does not appear to be addressed in the final regulation.*

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s.13, s.15

- s.13

- *This does not appear to be included in the final regulation.*

- s.13

- *This does not appear to be addressed in the final regulation.*

- s.13, s.15

- *This does not appear to be addressed in the final regulation. See s. 20.*

- s.13

- *This does not appear to be addressed in the final regulation.*

## Communication

The Working Group supports the current provisions in the MMPR for information sharing between agencies, but requests that Health Canada consider further information sharing measures, including:

- s.13

- *This does not appear to be addressed in the final regulation.*

- s.13

- *This does not appear to be addressed in the final regulation. See s. 38.*

- s.13

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s.13

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s.13, s.15

### Licence requirements

The Working Group supports the requirements currently proposed under the MMPR regarding the licensing of producers; however, the following additional measures are requested:

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s.13

*This does not appear to be addressed in the final regulation.*

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s.13

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*This does not appear to be addressed in the final regulation.*

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s.13

*This does not appear to be addressed in the final regulation.*

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s.13

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- *s.13*  
*This does not appear to be addressed in the final regulation.*

- *s.13*  
*This does not appear to be addressed in the final regulation.*

## Security

The Working Group supports the security measures proposed under the MMPR to ensure the security surrounding marijuana produced by licensees, but encourages Health Canada to consider the following additional measures:

- *s.13, s.15*  
*This does not appear to be addressed in the final regulation. See s. 18*

- *s.13*
- *This does not appear to be addressed in the final regulation. See s. 19.*

- *s.13, s.15*  
*This does not appear to be addressed in the final regulation.*

- *s.13, s.15*
- *This does not appear to be addressed in the final regulation. See s. 31(c):*

- *s.13, s.15*  
*This does not appear to be addressed in the final regulation. See Division 5.*

- *s.13, s.15*  
*This does not appear to be addressed in the final regulation. See Division 5.*

- *s.13*  
*This does not appear to be addressed in the final regulation. See s. 73(c).*



- s.13  
(in addition to key production staff being subject to security clearance by Health Canada – already proposed) s.13

*This does not appear to be addressed in the final regulation. See s. 89.*

- s.13  
*This does not appear to be addressed in the final regulation. See s. 91.*

s.13, s.15

## Law Enforcement

While the Working Group appreciates that Health Canada may act on information provided by law enforcement, it is requested that Health Canada consider the following additional measures:

- s.13, s.15  
*This does not appear to be addressed in the final regulation. See s. 36(1)(d).*

s.13, s.15

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- *This does not appear to be addressed in the final regulation. See s. 101.*

s.13, s.15

- *This does not appear to be addressed in the final regulation.*

## Transition Plan

The Working Group appreciates Health Canada's efforts to create legislation that will safely regulate the production and distribution of cannabis; however, the Working Group would like to be provided with further information outside of the MMPR regarding Health Canada's transition plan for phasing out personal production licenses and designated person production licences. Information requested includes detailed information regarding:

- A plan to deal with potentially unsafe properties formerly used for medical marijuana production, i.e., what Health Canada intends to do to address health and safety risks within residential homes previously used for licensed grow operations under the MMAR;
- Whether inspections of previous production locations will be conducted to ensure cessation of production as well as the safety of these sites; and
- How existing MMAR producers will be informed of the transition to MMPR, that they will not be granted a license extension and what will be required of them to ensure they are in compliance with the *Criminal Code of Canada* (i.e., dismantling their grow operation).

*The transition plan is not addressed in the final regulation. While a transition plan has been created, it does not deal with the concerns regarding what will happen to dwelling places formerly used for growing marijuana. In fact, in their Regulatory Impact Assessment, Health Canada specifically states that they will not be addressing this concern due to privacy concerns resulting from the fact that the marijuana was grown in a private residence. It is the position of Health Canada that remediation is a matter for local governments as Health Canada does not have jurisdiction over land use patterns, local zoning bylaws, or issuing building or construction permits. MGO WG concerns regarding homes formerly used for the production of medical marijuana have not been addressed. Not only do these homes remain a potential safety risk, Health Canada will not be conducting inspections to ensure that production has ceased after the licence becomes invalid with the repeal of the MMAR.*