

June 7, 2018

Dear LNPPs, Manufacturers, Laboratories and Couriers,

It has come to the attention of the New Mexico Medical Cannabis Program that some producers and approved entities have been obtaining, selling, or distributing CBD and hemp products that were produced outside of the state of New Mexico and transported into the state. **This practice is in violation of the Lynn and Erin Compassionate Use Act and must cease.** Producers and approved entities that obtain, sell, or distribute such products may be subject to disciplinary action against their licensure, and may also be subject to further civil and criminal penalties.

Section 26-2B-5 of the Lynn and Erin Compassionate Use Act states:

If a licensed producer sells, distributes, dispenses or transfers cannabis to a person not approved by the department pursuant to the Lynn and Erin Compassionate Use Act or obtains or transports cannabis outside New Mexico in violation of federal law, the licensed producer shall be subject to arrest, prosecution and civil or criminal penalties pursuant to state law.

Section 26-2B-4(A) of the statute immunizes qualified patients from criminal or civil penalties for possession or use of cannabis if the quantity does not exceed an “adequate supply”. “Adequate supply” is defined at section 26-2B-3(A) of the statute as “an amount of cannabis, in any form approved by the department, possessed by a qualified patient or collectively possessed by a qualified patient and the qualified patient's primary caregiver that is determined by rule of the department to be no more than reasonably necessary to ensure the uninterrupted availability of cannabis for a period of three months and that is derived solely from an intrastate source...”

Thus, producers are prohibited from obtaining cannabis or cannabis derived products from outside the state of New Mexico or transporting such products across state lines in violation of federal law, and qualified patients are not permitted to obtain cannabis that is not derived solely from an intrastate source, i.e., from within the state of New Mexico. These requirements are reflected in definitions of the Department rule at sections 7.34.4.7(B), (Q), and (RR) NMAC, which reiterate that all cannabis and cannabis derived products sold by a licensed nonprofit producer must be derived solely from an intrastate source. It is required that all cannabis and cannabis-derived products sold as a part of the Medical Cannabis Program originate from a plant that has been approved to be grown as part of the Medical Cannabis Program.

Approved manufacturers, couriers and laboratories should be aware that they are further restricted in their ability to obtain products from out-of-state due to the limitations of their respective licenses. Department rule does not permit manufacturers or couriers to obtain cannabis or cannabis-derived products from sources other than nonprofit producers licensed by the New Mexico Department of Health. Similarly, approved entities may not distribute cannabis or cannabis-derived products except as expressly permitted by Department rule. For example, a manufacturer may not obtain a CBD product from a vendor in Colorado and distribute it to a licensed producer or to any other person in New Mexico. A laboratory can only obtain cannabis or cannabis-derived products from a licensed producer, qualified patient or primary caregiver for testing purposes, and may not distribute that product to any other person.

Failure to adhere to Department rule may result in disciplinary action(s) by the Department, and further civil or criminal penalties. All cannabis and cannabis derived products that do not originate from a plant that has been approved to be grown as part of this program must be pulled from inventory effective June 29, 2018.

Contact your compliance officer if you have questions.

Thank you,



Kenny Vigil
Medical Cannabis Program Director
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