

Are the proposed rule changes meant to lead to a reduction in product?

No. The Department of Health is proposing changes to the regulations that are intended to increase the availability of medical cannabis for qualified patients in the Program. Licensed non-profit producers would be permitted under the proposed regulations to triple the number of plants that they grow and the Department also plans to license additional non-profit producers throughout the State of New Mexico after the rule change process is complete.

Will fees for all non-profit producers increase under the proposed rules?

No. Non-profit producers who choose to remain at the current plant count would pay essentially the same fee that they pay right now. Non-profit producers would only have to pay the increased fee if they choose to increase their plant count.

Is it true that the Department of Health developed these regulations without any input from producers and other stakeholders?

No. The Department used information from many sources, including patients in a 2013 survey it commissioned about the Medical Cannabis Program. We have taken written input and met with the Licensed Producers and informed them the Department would be working on new regulations and sought their suggestions on potential issues they would like to see addressed in the regulations. Information was also obtained from the Medical Cannabis Advisory Board, professional organizations, advocacy groups, other medical cannabis states and daily communication with various stakeholders and interested parties.

The Department is currently accepting written comments from the public, and will accept oral comment at the public hearing on June 16th at the Harold Runnels Auditorium, 1190 S. St Francis Drive, in Santa Fe.

The proposed rules are not yet final, and the rules may be amended by the Department in response to public comments received. The Department encourages producers, stakeholders and the public to provide feedback on the proposed rule changes. The perspectives and insights of stakeholders is an integral part of the rule making process.

Mail your written comments to:

Medical Cannabis Program
New Mexico Department of Health
P.O. Box 26110
1190 S. St. Francis Drive, S-3400
Santa Fe, NM 87502-6110

You may also email your comments to:

medical.cannabis@state.nm.us

The deadline to receive written comments is June 20th.

Why is the department proposing to increase fees?

The Department is proposing (1) to institute a \$50 patient registry fee, (2) implement a fee for providing replacement cards, and (3) implement a staggered fee structure for non-profit producers that would impose maximum possible fees on non-profit producers of three-times the current fees, while simultaneously permitting non-profit producers to triple their production (and thus triple their revenue) if they choose.

Under the proposal, qualified patients currently enrolled in Medicaid are eligible for both a waiver of all of the personal production fee and part of the patient registry fee.

While we recognize that increased fees can be a burden for some, the Department of Health has to balance its duty to effectively and responsibly carry out its statutory duties of oversight and implementation of the program and the needs of patients along with the concerns of the producers and other interested parties.

The Medical Cannabis Program relies entirely on fees, and does not receive legislative appropriation for its administration. The Program is unable at this time to continue to meet increased administrative burdens without additional funding. The proposed fees would be used to hire staff to support the administrative and oversight responsibilities of the program, ensure that patients have access to safe product and improve the outreach and education components of the program.

Is it true that the State is increasing the price of medical cannabis?

No. The Department of Health does not set prices for medical cannabis.

Is it true that the program is ending and that patients are leaving?

No. Since the program's inception there have always been a percentage of patients who do not renew for various reasons. The number of overall patients has increased since the inception of the program and the number of qualifying conditions has also been increased by the Department during the last two years.

The New Mexico Medical Cannabis Program is thriving, and the proposed rules are intended to meet the needs of the program as it has evolved. In May 2013 there were 9,210 active patients and as of May 30, 2014 there are 11,237 active patients in the program.

Why is the Department proposing to decrease the plant count for personal production licenses?

Personal production licenses (PPL) are the one area where the Department most often encounters law enforcement concerns regarding diversion of cannabis. To address this issue, and to also ensure that patients do not exceed the adequate supply of 170 units/six ounces over three months, the Department has proposed a decrease in the number of plants that a qualified patient may possess under a PPL. This plant count proposed is consistent with the number of plants allowed in medical cannabis programs in other states.

The Department also anticipates that the proposed increases in plant totals for non-profit producers will enable non-profit producers to grow and sell significantly more seedlings, and that this will enable qualified patients who hold personal production licenses to grow healthier, more robust plants.

Why is the Department proposing to require criminal history screening for persons who apply for personal production licensure?

This change is being proposed to ensure that medical cannabis is used only by qualified patients for their personal use. The Department is proposing to require criminal history screening for qualified patients who wish to grow cannabis using a personal production license. Persons who have been convicted of violating the controlled substances act may be prohibited from holding personal production licensure.

Does the Department intend to require criminal history screening of all applicants for enrollment?

No. The Department is not proposing to require criminal history screening in order for a person to enroll as a patient in the Medical Cannabis Program.

The Department is proposing to change the measurement of “adequate supply” limits for the possession of cannabis from ounces to units. How does this work and why the change?

With respect to dried cannabis leaves & flowers, the 6-ounce limit for a 3 month period has not changed. However, the Department is proposing to change the measurement description from ounces to “units”. The change to a “unit”-based system is proposed to address new methods of manufacturing and ingestion of cannabis-derived products (CDPs) that were not widely known when the current Rules were initially created. These include such products as concentrated CDPs.

A “unit” is identified in the rule as one gram of dried cannabis, or 0.2 grams of THC in cannabis-derived products. Thus, for cannabis-derived products, the amount of THC, the primary psychoactive ingredient, is used to determine the unit equivalent.

The proposed limits would look like this:

- Dried leaves & flowers = 170 units = 6 ounces = 170 grams (unchanged from existing rule)
- Cannabis-derived products/chocolate bar = 170 units = .2 grams/200 milligrams X 170 = 34 grams of THC
- Concentrate/wax = 170 units = .2 grams/200 milligrams X 170 = 34 grams of THC at no more than 60% by weight

Why is the Department proposing to limit the amount of THC in high THC products?

The Department is concerned that the documented risks of high THC products outweigh the benefits at this time for the general population of patients in the Program. The proposed 60% cap on THC levels in cannabis-derived products is also generally consistent with the maximum quantity of THC that is contained in most cannabis-derived products, and the Department anticipates that the proposed 60% cap would not impact the availability of cannabis-derived products for qualified patients.

It’s also important to note that if a qualified patient needs a higher concentration of THC due to their medical condition, the patient can request an exception to the rule by submitting a statement from a certifying practitioner verifying that this is medically needed.