

64 CSR 109 Medical Cannabis Program – General Provisions
Department of Health and Human Resources
Bureau for Public Health
Office of Medical Cannabis

Summary of Public Comments and Responses

Although this comment purports to implicate all five Medical Cannabis Program rules, the Department has determined it most appropriately speaks to 64 CSR 109, General Provisions.

Comment:

Under W. Va. Code §16A-3-1, the Department of Health and Human Resources (DHHR) is authorized to include dry leaf or plant as an acceptable form in which to dispense medical cannabis to a patient or caregiver. Specifically, the statute provides, “[u]nless otherwise provided in rules adopted by the bureau under section two, article eleven of this chapter, medical cannabis may not be dispensed to a patient or a caregiver in dry leaf or plant form.” Pursuant to the authority specifically vested in the DHHR, I respectfully request that cannabis flower as well be included as an acceptable form in which to dispense medical cannabis to a patient or caregiver.

Response:

The Department has reviewed this comment and has determined that, since the medical cannabis program is in the initial stages of development, it is prudent to limit the forms of cannabis medically appropriate to those forms authorized by statute. The Bureau for Public Health may consider implementation of the suggested change at a future point in the development of the medical cannabis program.

Robertson, April L

From: Frank Hartman <frank@h2cstrategies.com>
Sent: Monday, July 22, 2019 3:50 PM
To: Robertson, April L
Subject: [External] Public Comment
Attachments: Public Comment .docx; ANALYTICS.pdf

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Ms. Robertson:

Attached please find my comments for the medical cannabis rules and supporting documents.

Thank you.

Frank Hartman
H2C Public Policy Strategists, LLC

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April L. Robertson
General Counsel
West Virginia Department of Health and
Human Resources
One Davis Square, Suite 100 East
Charleston, West Virginia 225301

RE: Public comment to: 64 CSR 109; 64 CSR 110;
64 CSR 111; 64 CSR 112; 64 CSR 113

Ms. Robinson:

Under *W.Va. Code §16A-3-1* the Department of Health and Human Resources (DHHR) is authorized to include dry leave or plant as an acceptable form in which to dispense medical cannabis to a patient or caregiver. Specifically, the statute provides, “[u]nless otherwise provided in rules adopted by the bureau under section two, article eleven of this chapter, medical cannabis may not be dispensed to a patient or a caregiver in dry leaf or plant form.” Pursuant to the authority specifically vested in the DHHR, I respectfully request that cannabis flower as well be included as an acceptable form in which to dispense medical cannabis to a patient or caregiver.

The requested additions would promote increased quality in the medical cannabis industry by providing greater patient access, increasing the revenue benefit to the State of West Virginia, and attracting experienced and knowledgeable investors.

Other states with medical and fully open markets can be illustrative of the benefit of including flower among the acceptable forms for dispensing medical cannabis. As it relates to greater patient access flower is the most approachable product type for new patients (with edibles a close second) and is among the least expensive methods for patients to receive treatment. Based upon a December 2018 Report from the Oregon Retailers of Cannabis Association (ORCA) represents approximately 38% of all cannabis sales (please see attached document).

In addition to the benefits for patients in the form of increased access and decreased costs, there are clear economic benefits to the State as well as potential investors in the industry by including flower among acceptable medical cannabis dispensing forms. ORCA reports \$667 million in total cannabis sales in 2018.

Adjusting for West Virginia's population and significantly smaller market, and assuming a fully open market, as well as assuming a consumption rate the same, or similar, as Oregon, there would be approximately \$286 million in total annual sales at three-year market maturity. However, if flower (and edibles) are excluded, there would be projected total annual sales of only \$80-126 million.

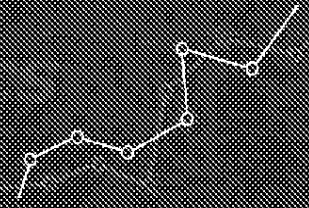
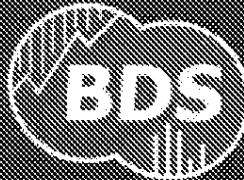
Further, at the height of the medical program in Oregon, there were approximately 78,000 patients (or roughly 2% of Oregon's total population) which resulted in total annual sales of approximately one quarter of what open use has become in the state. Therefore, if you reduce the fully-open market model to medical only, and then even further reduce the acceptable forms of dispensing medical cannabis to patients by eliminating flower, the potential market, based on Oregon data, would shrink to as low as \$21.6 million in annual sales.

Without the necessary financial incentive, experienced high-quality operators and investors will not be induced to come to West Virginia. This reality in turn impacts patient access as well as the revenue generating potential of the industry. By attracting experienced and knowledgeable investors in the sector, the quality and efficiency of the industry is maximized which benefits all citizens of the state.

For the foregoing reasons, I implore the Department of Health and Human Resources to amend the current rule to permit dry leaf or plant form.

Sincerely,

I. Franklin Hartman, III

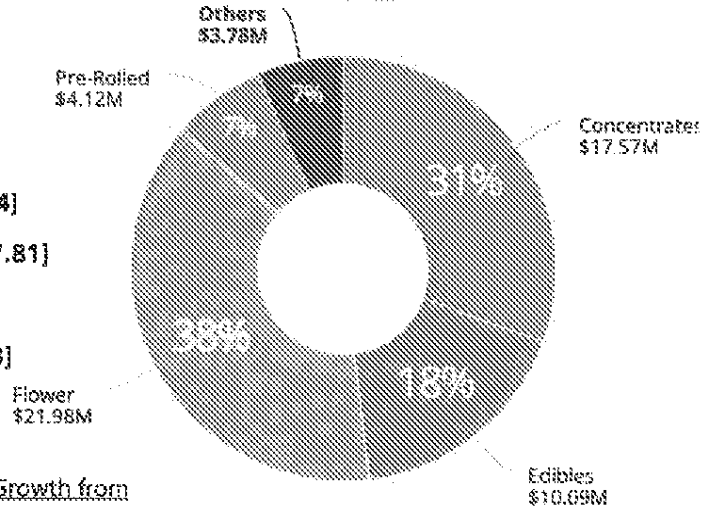


ORCA + BDS Analytics – Retail Sales Report, Jan. 2019

Average Retail Prices in Oregon By Category

[Monthly, Dec '18, compared to previous month]

- Average Flower price (per gram): \$3.92 [down ~8% from \$4.24]
- Average Edible price (per unit): \$17.20 (down ~3.5% from \$17.81)
- Average Topical price (per unit): \$27.93 [up ~3% from \$27.13]
- Average Vape price (per unit): \$33.25 [down ~1% from \$33.63]



	December Sales	Growth from November 2018	Growth from December 2017
Flower:	\$22.4M	-3%	3%
Pre-Rolls:	\$4.1M	11%	17%
Concentrates:	\$17.6M	10%	36%
• Live Resin:	\$1.2M	10%	142%
• Shatter:	\$1.7M	3%	27%
• Vape:	\$12.1M	9%	35%
• Wax:	\$567K	30%	92%
Edibles:	\$10.1M	12%	31%
• Beverages:	\$465K	16%	175%
• Candy:	\$5.1M	13%	30%
• Chocolates:	\$1.2M	17%	-23%
• Infused Foods:	\$913K	5%	155%
• Pills:	\$142K	3%	-14%
• Tinctures:	\$2.3M	8%	58%
Topicals:	\$1.1M	30%	21%

For more information on the data and services that BDS Analytics provides, or to reach our staff about setting up an online demo, please contact:

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December Sales Summary - Sales in Oregon's dispensaries reached \$57.5 million in December, a 17 percent increase from the previous December. Compared to the trailing month, Adult-use and Medical sales combined increased six percent. Compared to the previous December, sales to adults 21 and over grew 21 percent, while sales to medical patients decreased by 13 percent. Total sales for 2018 were \$667 million, a 22 percent increase from 2017. Adult-use sales grew by 26 percent in 2018 while medical sales declined six percent.

The sales of flower/bud generated \$22.4 million in revenue in December. The category generated 39 percent of revenues for the month and had a three percent increase in sales compared to the previous December. Concentrate sales in December increased 36 percent from the previous year, reaching \$17.6 million. Over 69 percent of concentrate dollars in the month were from vape products which grew 35 percent from the previous year. Sales of edibles were \$10.1 million in December, a 31 percent increase from the previous December.