

CCDEH POSITION ON ASSURING SANITATION OF PREMISES DISPENSING MEDICAL MARIJUANA IN FOOD PRODUCTS

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- California law (Compassionate Use Act passed by Proposition 215 in 1996) Health and Safety Code 11362.5 *et seq.* allows the dispensing of medical or “compassionate” marijuana through membership or cannabis clubs.
- Federal law regulates marijuana as a restricted substance/drug.
- For medical and convenience reasons, medical marijuana is being dispensed to both legal and illegal users by incorporating it into conventional food products, most commonly cookies and brownies.
- There is a public health risk of food borne illnesses from edible products - especially potentially hazardous food – served from dispensaries operating in unsanitary conditions or without infrastructure necessary for proper processing or holding.
- These public health risks are likely to increase as cannabis dispensaries continue to expand and if recreational marijuana use is approved in the future.
- Marijuana is a federally controlled substance and local health and environmental health departments do not have authority to regulate dosage, quality, efficacy or other medicinal or pharmaceutical provisions that are the purview of the federal or State government.
- The California Department of Public Health (CDPH) has advised local agencies that edible products containing marijuana may not legally be sold as food pursuant to the Sherman Food, Drug and Cosmetic Law “Sherman Law” (Health and Safety Code Division 104 Part 5) or the California Retail Food Code “CalCode” (Health and Safety Code Part 7). Edibles that contain marijuana meet the statutory definition of “drugs” under the Sherman law because their intended use is to effect the structure or function of the body and because they are being used in the cure, mitigation, and treatment of disease. The brownie or cookie merely becomes the drug delivery system.
- Manufacturing of drugs is strictly controlled and must be conducted in a licensed facility, subject to the inspection of CDPH. CDPH cannot license marijuana edible manufacturers under current law, as the products do not have an approved new drug application on file with the US Food and Drug Administration, setting forth the safety and efficacy of the products. Additionally, the schedule classification of marijuana would have to be changed from schedule one to schedule two, before FDA could even consider a new drug application.
- There are no current statewide standards or guidelines providing specific sanitation requirements for the dispensing of medical marijuana edibles

Local health and environmental health officials in California recognize the potential public health risks associated with the unregulated dispensing of medical marijuana in California resulting from:

- Contaminated or adulterated marijuana,
- Contaminated or adulterated delivery systems – food, drinks, pipes, etc.,
- Inconsistent and/or inaccurate measurement of dosage and potency,
- Access to minors, and
- Public nuisance issues associated with growing, processing and handling marijuana

Despite complex and conflicting federal and state laws, most local governments assert their authority to regulate these dispensaries for public health, safety and business purposes. To ensure public health protection, some local environmental health agencies are implementing permitting and

inspection programs and/or performing plan reviews, while others are being asked to provide input on the necessary sanitation requirements of these facilities. Many local agencies have instituted bans or moratoriums on new dispensaries pending the adoption of state and local standards for the safe dispensing of this substance.

CCDEH supports the drafting of a statutory amendment to create a new product classification and appropriate sanitary standards for the production of those products or a model local ordinance that comprehensively addresses public health, public safety as well as zoning and business licensing issues.

In order to provide for consistent public protection, CCDEH favors the establishment of statewide standards in statute by which the state or local government would regulate marijuana edibles - and possible future recreational – marijuana. Such standards will need to:

- Treat medical marijuana dispensaries as medical dispensing facilities, not food facilities. Food facilities regulated under Cal Code and marijuana dispensaries or associated dispensary activities should be contained in totally separate facilities.
- Establish marijuana edible sanitation requirements in a new section of the Health and Safety Code, separate from the California Retail Food Code, to avoid conflict with existing federal and state laws, and
- Prescribe sanitation standards equivalent to CalCode for food preparation, storage and handling and sale of edible marijuana products. Marijuana edible products produced at dispensaries should be limited to non-potentially hazardous food such as tea, cookies, brownies or candy. Provide standards for labeling edible products containing marijuana to ensure products are presented as drugs and cannot be mistaken as food.
- Dispensaries preparing marijuana edible products should be constructed in accordance with applicable building standards and other state laws.
- Ensure that edible products sold at dispensaries are not produced, or stored in private homes.

Note:

The City and County of San Francisco has adopted a local ordinance (Article 33: The Medical Cannabis Act) which regulates medical cannabis dispensaries through a permit which is issued by SF Environmental Health with referral and review by other SF departments, including the Mayor's Office, Fire, Planning and Building.