



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: August 1, 2024

AGENDA TITLE

Discussion and feedback on a potential approach to local zoning regulations and licensing regime in response to the Natural Medicine Health Act of 2022, as amended by Colorado Senate Bill 23-290 and state regulations.

PRESENTER(S)

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EXECUTIVE SUMMARY

The purpose of this memo is to update council on the city's options to adopt regulations in response to the [Natural Medicine Health Act of 2022, \(the Act\)](#), a citizen-initiated measure related to the use of certain plants or fungi for people 21 years of age and older, which was approved by Colorado voters in November of 2022. This Act was amended by the Colorado Assembly through the enactment of [SB23-290: Natural Medicine Regulation And Legalization](#) to clarify and set the framework for a regulated natural medicine program in Colorado.

The first phase of the state legalization and licensing regime focuses on psilocybin, a naturally occurring psychedelic compound found in more than 200 species of mushrooms that grow naturally around the world (other substances related to mushrooms and in the state definition of natural medicine) will be the focus of future roll out of licensing and

state regulations in coming years. For centuries, Indigenous and Tribal communities across the globe have used psilocybin for spiritual, ceremonial and other purposes. Research suggests psilocybin may help address depression, anxiety, trauma and addiction. Studies have also found it may increase spiritual well-being.

The 2022 Act decriminalized the cultivation, possession, consumption, and sharing of natural medicine for personal use for persons 21 years of age and older provided no money or other consideration is paid for the natural medicine. Natural medicine can be consumed in exchange for money or other consideration only for therapeutic purposes in a state-licensed natural medicine healing centers under the supervision of a state-licensed facilitator. The Act, as amended in 2023 by SB-23-290, creates occupational licensing requirements for facilitators that are to be administered by the Colorado Department of Regulatory Agencies (DORA) (such as requirements for training and experience) and business licensing requirements for healing centers, products manufacturers, cultivation faculties, and testing facilities that are to be administered by the Colorado Department of Revenue (DOR Natural Medicine Division).

The Act states that a local government may not prohibit the provision of “natural medicine services” within its boundaries so long as the provider is a “licensed facilitator” as defined by state law. A local jurisdiction may also not prohibit the establishment or operation of state-licensed natural medicine businesses within their jurisdiction nor adopt ordinances or regulations that are unreasonable or in conflict with state law. Nevertheless, local governments retain the ability to reasonably regulate the time, place, and manner of the operation of state-licensed natural medicine businesses (such as healing centers). The State anticipates accepting applications for natural medicine businesses before the end of 2024 and intends to issue licensing at the beginning of 2025, so local regulations on natural medicine will need to be in place before Dec. 31, 2024.

The purpose of this agenda item is also to share staff’s initial thinking of how such local regulation could look for Boulder, the analysis and rationale for staff’s recommendation, and an opportunity for council to provide feedback on the proposed approach before staff moves forward with drafting an ordinance with the goal of adoption of the ordinance by years end.

The following is a high-level overview of staff’s current thinking with regard to licensing and changes to the land use code:

Licensing:

- No local licensing regime for natural medicine uses.

Zoning:

- Regulate natural medicine healing centers as a “Medical office” use. Create new specific use standards that only permit healing centers in areas where medical offices are permitted by-right and no closer than 1,000 feet from any residential use.

- Regulate Natural Medicine Cultivation Facilities, Natural Medicine Products Manufacturers, and Testing Facilities as “Light manufacturing” uses.

This memo outlines the rationale for this approach as well as the plan for community engagement. Staff continues to be open to feedback and will continue discussions with the state, other Colorado communities, and members of the community.

Lastly, the state is currently developing more specific rules for natural medicine businesses and facilitators as part of the rulemaking process to govern licensing, certification and safe operation of the uses. The progress of rulemaking is summarized within this memorandum. Rulemaking is scheduled to conclude on July 25 right before the City Council discussion of natural medicine, but adoption of the more specific standards on natural medicine may not be concluded before Aug. 1. The state website on rulemaking and the latest drafts can be accessed at this [link](#). Other useful state materials and summaries of the state law are attached found in **Attachment A** (Natural Medicine Know the Law brochure) and **Attachment B** (Department of Revenue State Bill 23-290 Summary). A summary of what Oregon communities have done to implement local regulations on natural medicine and what some Colorado communities are considering is found in **Attachment C** and have informed staff’s analysis.

KEY ISSUE QUESTIONS

1. Does City Council have any questions about the scope of the project or proposed approach or recommendations for changes?
2. Does City Council have any specific feedback on the proposed approach for licensing and zoning for Natural Medicine related uses?

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Economic** – No specific economic impacts to the city have been identified.
- **Environmental** - Cultivation, product manufacturing, and testing facilities associated with natural medicine businesses use chemicals for extracting the components from psilocybin mushrooms that have psychedelic properties and for sterilization processes. Particulates in the air is another externality of natural businesses and thus, require specialized air filtration systems. The state is currently developing specific requirements for natural medicine business to ensure safe and environmentally sensitive operations.
- **Social** - Colorado voters approved Proposition 122 in 2022, which legalized psilocybin mushrooms and enables a legal method of treating mental health and wellbeing. Research suggests psilocybin may help address depression, anxiety, trauma and addiction. Studies have also found it may increase spiritual well-being. Natural medicine uses are required by state law to be permitted in all Colorado municipalities and thus, their access to the community is expected to become more widespread. Indigenous peoples have historically used psilocybin and it has deep traditional importance to them. This has created some concern

among indigenous people and how the expected wider use of the mushrooms could impact their traditional practices. This is a topic that is currently being discussed at the state level and among the city of Denver's working group.

OTHER IMPACTS

- **Fiscal** - If a licensing regime is selected, additional revenue from fees would be created to cover inspection and enforcement needs. As natural medicine businesses will only be a fraction of alcohol or marijuana establishments, the revenue stream would be comparably lower.

Staff time - This project is being conducted under normal staff work plans to implement recent state legislation.

BOARD AND COMMISSION FEEDBACK

None at this time.

COMMUNITY FEEDBACK

The regulations would be the result of an approved voter referendum and subsequent state bill where a local jurisdiction may not prohibit state licensed natural medicine facilities from operating within the city. Staff will conduct targeted community engagement on a level of consult as the state law anticipates that local zoning laws will regulate where the cultivation, manufacturing, testing, storage, distribution, transfer, and dispensation of natural medicine or product may be permitted.

Staff will ensure opportunities for industry experts and other interested community members to provide input. Staff has been meeting with a small technical consultation group of experts on natural medicine to learn more about the industry and impacts. Members include an attorney and co-drafter of the state bill, a therapist practitioner who is aiming toward use of natural medicine, and other advisors on the legislation. Staff is also consulting with State officials, the City of Denver and other municipalities in Colorado to learn from their approaches to community engagement and more broadly on the development of local regulations related to natural medicine. These meetings include the working groups conducted by Denver on the development of the local regulations and the state as part of the state level rulemaking process. Staff also attend the roundtable meeting organized by the state in July with other Colorado jurisdictions on their approaches to developing local regulation.

Staff will use a variety of methods to obtain our community's feedback, including but not limited to the use of Planning & Development Services newsletters and potentially a questionnaire on Be Heard Boulder. Staff is also considering a virtual open house or expert panel where members of the public could engage with industry experts to better understand the potential impacts of natural medicine uses and for members of the community to provide comments on a proposed ordinance.

Staff is also using the Racial Equity Instrument as part of this project. Main equity considerations relate to how allowing natural medicine more widely conflicts with the indigenous people's traditional use of psilocybin. This is a key issue being discussed at the state level. Staff has been in contact with an indigenous representative who suggested that these concerns be focused on at the state level rather than locally to ensure more consistent addressing of the concerns and avoiding any conflation with the efforts at the state level. Staff has also heard concerns about local governments restricting the hours of natural medicine uses since it could preclude any businesses that may operate in accordance with more traditional practices that occur at night. Further, restricting hours of operation to typical office hours, such 8am to 5pm, may be very limiting to customer access (especially those with less flexible work schedules).

BACKGROUND

In November 2022, Proposition 122 (Access to Psychedelic Substances) was passed by Colorado voters and focused on making natural medicine (often referred to as “magic mushrooms” and more specifically referred to as psilocybin) available as a tool for treating mental health issues. Psilocybin is a naturally occurring psychedelic compound found in more than 200 species of mushrooms that grow naturally around the world. For centuries, Indigenous and Tribal communities across the globe have used psilocybin for spiritual, ceremonial and other purposes. Research suggests psilocybin may help address depression, anxiety, trauma and addiction. Studies have also found it may increase spiritual well-being. The Act, referred to as the [Natural Medicine Health Act of 2022](#), allows local governments to regulate the time, place, and manner of the operation of healing centers licensed under the Act. On May 23, 2023, [Colorado Senate Bill 23-290, Natural Medicine Regulation and Legalization \(“SB23-290”\)](#), also known as the psilocybin or magic mushroom bill, became law. SB23-290 amended the Natural Medicine Health Act of 2022 to clarify and establish a regulatory framework for a regulated natural medicine program in Colorado. A copy of the state bill can be reviewed at this [link](#).

More specifically, the state law:

- creates a state licensing program for natural medicine healing centers, natural medicine cultivation facilities, natural medicine product manufacturers, natural medicine testing facilities, and any other licenses the state licensing authority may find necessary;
- allows persons over 21 years of age to possess, share, cultivate, and manufacture certain regulated natural medicine for personal use and without remuneration.
- provides the framework for occupational licensing of persons who facilitate the use of natural medicine,
- permits licensed healing centers to administer and facilitate natural medicine services for persons 21 years of age or older and sets the stage for state licensing, certification, permitting and registration of natural medicine businesses to begin on or before ***December 31, 2024***. State officials have indicated to staff that

applications could be accepted before the end of 2024, but no licenses would be issued until after Jan. 1, 2025.

- indicates that the Colorado Department of Revenue will maintain and update an online list of licensees, and that licensees will be required to conspicuously display their license on the licensed premises. Similarly, the Colorado Department of Regulator Agencies' Division of Professions and Occupations will regulate businesses and persons who cultivate, manufacture, test, store, distribute, transport, transfer or dispense regulated natural medicine,
- Creates an advisory board of 15 members to oversee the process and administration. The board will make recommendations to the executive director of state licensing authority.
- Clarifies the state's regulatory and supervisory role for natural medicine, dosing requirements of natural medicine sessions, limits to physical contact, how sessions are paid for, individual or group sessions, and record keeping and privacy.
- Includes guidance on engagement and coordination with American Tribes and indigenous peoples on avoiding over commercialization of natural medicine services and best practices.
- Sets up licensing requirements and standards for facilitators with the Colorado Department of Regulatory Agencies (DORA), penalties, judicial review, fees and revenues.

More specifically, the state regulations include, *Title 44, Article 50, Colorado Natural Medicine Code*, which establishes standards for the following:

- Regulations for the cultivation, manufacturing, testing, storing, distribution, transportation, transferring, and dispensation of regulated natural medicine and related products.
- Five new license types:
 - Natural Medicine Healing Center license
 - Natural Medicine Cultivation Facility license
 - Natural Medicine Product Manufacturers license
 - Natural Medicine Testing Facility license
 - Other
- Distance requirements of 1,000 feet from the property line of childcare centers, preschools, elementary, middle, junior or high schools or residential childcare facilities, using a direct pedestrian route
- Direction for local regulations:
 - A local jurisdiction may enact ordinances or regulations governing the time, place, and manner of operation of licenses issued pursuant to the Colorado Natural Medicine Code within its boundaries.
 - A local jurisdiction may not prohibit the establishment or operation of licenses pursuant to the Colorado Natural Medicine Code within its boundaries.

- A local jurisdiction may not prohibit the transportation of natural medicine or natural medicine product within its boundaries on public roads by a person licensed to exercise such privileges pursuant to the Colorado Natural Medicine Code.
- A local jurisdiction may not adopt ordinances or regulations that are unreasonable or conflict with the Colorado Natural Medicine Code.
- An action or conduct permitted pursuant to a license issued under the Colorado Natural Medicine Code is not unlawful under state or local law and may not be the basis to deny a right or privilege under state or local law.

While a local government may not prohibit the establishment and operation of state licensed natural medicine businesses and may not prohibit a state licensed facilitator from providing natural medicine services within its jurisdiction, the state law expressly anticipates local zoning laws to apply to natural medicine businesses and allows for local ordinances or regulations governing the “*time, place, and manner of the operation of [natural medicine business] licenses*” issued pursuant to the Colorado Natural Medicine Code. The state law further limits this authority by prohibiting local ordinances or regulations that are “*unreasonable or conflict with*” the Colorado Natural Medicine Code or state occupational licensing standards without further defining those terms. In the absence of regulations or case law further defining those terms, the extent of local authority to regulate is not clear. For instance, the state law and the regulations do not set up standards for local licensing authority and do not expressly address local licensing for natural medicine facilities. In contrast, state marijuana and alcoholic beverage laws anticipate and establish regulations for a local licensing authority and program. Any local regulations will have to be carefully drafted to avoid conflicts with the extensive state law and regulations.

Lastly, state law indicates that the state will engage in rulemaking to create more specific regulations for licenses and certificates for testing facilities, testing procedures, and other rules in advance of Dec. 31, 2024. A synopsis of this rulemaking is provided below.

Rulemaking

The state is currently developing more specific regulations for facilitator licenses and for natural medicine related uses. Current drafts of the regulations are covering the following topics either through facilitator licensing or natural medicine business licensing:

- ✓ General requirements,
- ✓ Requirements on fees and applications,
- ✓ Licensing and renewals,
- ✓ Background checks,
- ✓ Colocation requirements,
- ✓ Security standards,
- ✓ Waste disposal,
- ✓ Sanitation and safety,

- ✓ Marketing and advertising,
- ✓ Transport of materials,
- ✓ Packaging and labeling,
- ✓ Qualifications,
- ✓ Cultivation and processing,
- ✓ Manufacturing procedures,
- ✓ Inventory management,
- ✓ Equipment,
- ✓ Handling of chemicals,
- ✓ Record keeping,
- ✓ Testing, storage and packaging, and
- ✓ Standards on sessions.

Rulemaking is scheduled to conclude on July 25. Adoption of the standards is anticipated afterwards but may not be concluded by the time council discusses the item on Aug. 1. The State website on rulemaking and the latest drafts can be accessed at this [link](#). Other useful State materials and summaries are attached to this memo: **Attachment A**- Natural Medicine Know the Law brochure, and **Attachment B** – Department of Revenue State Bill 23-290 Summary

ANALYSIS

Staff sent an information memorandum to the City Council on the Natural Medicine project scope, approach to engagement and timeframe, along with the background information on the state law on [April 18, 2024](#). Since that time staff has been evaluating the implications of the state legislation, monitoring the state rulemaking process, meeting with industry experts to better understand the nature and operating characteristics of natural medicine uses, researching Oregon communities (which are also creating local rules to regulate natural medicine), reaching out to other Colorado communities to understand their approach to regulating natural medicine related uses, beginning to design an engagement process, and developing zoning and licensing approaches. A summary of what Oregon communities have done to implement local regulations on natural medicine and what some Colorado communities are considering is found in **Attachment C** and have informed staff's analysis. Staff's goal is to have council be prepared to adopt new regulations and a licensing regime (if necessary) by the time the state begins issuing licenses at the start of 2025. An update on this work is provided below along with the proposed approach for which staff is seeking feedback on from City Council.

Definition of Natural Medicine

“Natural medicine” is defined to include psilocybin/psilocyn, as well as, if approved for use by the state at a later time, each of the following: dimethyltryptamine; ibogaine; and mescaline. The definition does not include synthetic or synthetic analogs of these substances. Nor does it include peyote. “Natural medicine product” means products infused with natural medicine that is intended for consumption. The specific definition (as it applies to licensing of facilitators) is found below:

(a) "Natural medicine" means the following substances:

(i) psilocybin; or (ii) psilocyn.

(b) in addition to the substances listed in subsection (12)(a) of this section, "natural medicine" includes:

(i) dimethyltryptamine, if recommended by the board and approved by the director and the executive director of the state licensing authority for inclusion on or after June 1, 2026;

(ii) ibogaine, if recommended by the board and approved by the director and the executive director of the state licensing authority; or

(iii) mescaline, if recommended by the board and approved by the director and the executive director of the state licensing authority for inclusion on or after June 1, 2026.

(c) "natural medicine" does not mean a synthetic or synthetic analog of the substances listed in subsections (12)(a) and (12)(b) of this section, including a derivative of a naturally occurring compound of natural medicine that is produced using chemical synthesis, chemical modification, or chemical conversion.

*(d) notwithstanding subsection (12)(b)(iii) of this section, "mescaline" does not include peyote, meaning all parts of the plant classified botanically as *lophophora williamsii lemaire*, whether growing or not; its seed; any extract from any part of the plant, and every compound, salt, derivative, mixture, or preparation of the plant; or its seeds or extracts.*

Natural Medicine Uses, Characteristics and Potential Impacts

Definitions

Per State law, "Natural Medicine Business" means any of the following businesses licensed pursuant to the Natural Medicine Code:

- i. A Natural Medicine Healing Center;
- ii. A Natural Medicine Cultivation Facility;
- iii. A Natural Medicine Products Manufacturer;
- iv. A Natural Medicine Testing Facility.

Other than testing facilities, proposed rulemaking indicates that colocation of the businesses above will be permitted under State rules within one establishment or location. Proposed rulemaking further indicates that natural medicine businesses may not operate at a location for which a liquor license or marijuana license has been issued. All natural medicine uses would be required to be located at least 1,000 feet from childcare center,

preschool, elementary, middle, junior or high school or residential child care facility (nearest property line to the uses using a direct pedestrian route).

The specific natural medicine related definitions are below (some are proposed in rulemaking and not yet adopted) and will be important to consider when formulating local regulations:

“Healing Center” means a facility where an entity is licensed by the State Licensing Authority pursuant to article 50 of title 44 that permits a Facilitator to provide and supervise natural medicine services for a participant.

“Natural Medicine Cultivation Facility” means a location where Regulated Natural Medicine is grown, harvested, and prepared in order to be transferred and distributed to either a Healing Center, a Natural Medicine Products Manufacturer, or to another Natural Medicine Cultivation Facility.

“Natural Medicine Products Manufacturer” means a person who manufactures Regulated Natural Medicine Products for transfer to a Healing Center or to another Natural Medicine Products Manufacturer.

“Natural Medicine Testing Facility” means a public or private laboratory licensed and certified, or approved by the Division, to perform testing and research on Regulated Natural Medicine and Regulated Natural Medicine Product.

“Natural Medicine Product” means a product infused with Natural Medicine that is intended for consumption.

“Regulated Natural Medicine” means natural medicine that is cultivated, manufactured, tested, stored, distributed, transported, transferred, or dispensed pursuant to the Natural Medicine Code. Regulated Natural Medicine includes:

- i. Psilocybin; or
- ii. Psilocyn.

“Regulated Natural Medicine Product” means natural medicine product that is cultivated, manufactured, tested, stored, distributed, transported, transferred, or dispensed pursuant to the Natural Medicine Code.

Natural Medicine Healing Centers

Characteristics

While people possessing natural medicine for personal use is no longer illegal and individual cultivation of mushrooms is permitted for personal use within strict square footage limits (e.g., 12’ by 12’ spaces), the administering of natural medicine for medicinal or mental health reasons will be regulated by the state and is limited to occur at

“healing centers” which are much like a licensed medical or therapy office with specialized, trained and licensed staff. The administering of natural medicine is called “Natural Medicine Services” and is done in sessions, which may be with individuals or with a group. Natural Medicine Services require a “preparation session,” an “administration session” when patients consume and experience the effects of regulated natural medicine or natural medicine product and an “integration session,” which occurs after the administration session.

Facilitators describe the behaviors of most patients are sedate during administration sessions, although there could be patients that react differently. Administration sessions can last from six to eight hours depending on the dose as the substance can stay in the human body for four to six hours. Facilitators typically observe patients and determine when it is safe for them to leave. Rulemaking includes requirements indicating proper supervision of patients during administration sessions, when patients are permitted to leave, and that facilitators must create a discharge plan to ensure safe transportation from the healing center after an administration session.

One key issue with regulating healing centers is if there should be limitations on the hours of operation. In consultation with some industry representatives, restricting hours of operation to typical office hours, such 8am to 5pm, may be very limiting to customer access (especially those with less flexible work schedules) and also inconsistent with the hours that indigenous persons traditionally use the products.

Note that healing centers and the other natural medicine uses at this time do not have a retail component for individual use like there is for marijuana, so there is not a scenario where a person could go to any of these facilities to buy psilocybin.

Potential Impacts of Healing Centers

- Expected to be largely analogous to medical clinics or therapy offices.
- Patients could be impaired after use. Worst case scenario could be atypical behaviors leaving the healing center or inability to drive after natural medicine use. Proposed rules for facilitator licenses include requirements to prepare transportation plan with participants to ensure safe transportation following an administrative session where the participant consumes natural medicine. Note that driving under the influence or ability impaired after consumption of natural medicines remains illegal in Colorado.

Natural Medicine Cultivation Facilities, Natural Medicine Products Manufacturers, and Testing Facilities

Characteristics

Cultivation, product manufacturers and testing facilities are all industrial in character and would likely be regulated as such. The uses involve growing equipment, humidifiers, special air handling equipment, lighting, chemicals, storage etc. for the growth of psilocybin mushrooms to the creation of products. State rulemaking has been aimed at the

safe operation of these uses. State rules are also focused on security requirements for these uses.

From discussions with industry experts, cultivation facilities would likely be much smaller than the marijuana counterparts since mushrooms can be grown in much smaller environments. Therefore, the space needed for cultivation could vary from a room to a warehouse in size, although the amount of product to be created for the entire state would be significantly less than marijuana. Manufacturing or testing spaces would be expected to be larger than cultivation in general. Again, as stated above, all these uses (except testing facilities), including healing centers, would be permitted to collocate per developing state law (provided each use is allowed to be located in the location under local zoning laws). Facilities would need to regulate humidity levels, may use high heat for sterilization, use chemicals for extraction and sterilization, and follow safety protocols for safe storage, disposal and transport of the product, all of which are being considered in the state rulemaking process.

Potential Impacts of Natural Medicine, Cultivation Facilities, Product Manufacturers and Testing Facilities

- Expected to be analogous to other manufacturing uses including noise from boxing machines and delivery trucks.
- Noncompliance with state environmental or specific natural medicine laws may result in smells, mold growth, fire from sterilization misuse, particulates in the air within facilities, or improper disposal of waste products or toxic chemicals.
- Unsustainable practices such as the use of coconut husks, use of plastic bags etc.

Proposed approach on licensing and zoning

Licensing: Staff proposes no local licensing regime for natural medicine uses. While this differs from how the city approaches alcohol and marijuana, the reasons for the difference are as follows:

- The state is in the process of adopting comprehensive regulations of natural medicine businesses and facilitators, including the comprehensive list of topics listed on page 7 above.
- Sale of natural medicines remains prohibited. Consumption other than for personal use is allowed only in healing centers under supervision of a licensed facilitator. As such, the use is more similar to a medical office than uses involving on premises consumption or sale of alcohol or marijuana.
- The state explicitly requires or allows for local licensing for alcohol and marijuana, which are products that have greater accessibility to members of the public. The state law does not reference local licensing for natural medicine businesses. The city does not require local licensing for specialized medical treatments or production facilities of medicines, which are already regulated by federal and/or state law.
- The extent and volume of the natural medicine product is significantly less than that of alcohol and marijuana in terms of the space needed to produce or store the

- product. Distribution of alcohol is prevalent in stores, restaurants, brewpubs and taverns. Marijuana is also more widespread with retail establishments and necessity for large grow facilities and production spaces. Natural medicine production only requires small spaces and will not be as widely available.
- The impacts of the uses are lower and will best be handled by the specific regulations enforced by the state

As stated above, state law permits localities to regulate the time, manner and place of natural medicine business uses. If City Council agreed that the time and place of such establishments were sufficient to minimize impact, a zoning approach alone as specified below is the recommended approach. However, if the council wanted to comprehensively regulate the manner (more specific regulations similar to how marijuana establishments are regulated), then a local licensing approach (in addition to the zoning approach) could be pursued. Staff intends to connect with members of the community on this topic and Boulder Police, as well as seeing if other Colorado local governments elect to do local licensing to determine if the approach outlined here should change.

Zoning (Healing Centers): Regulate natural medicine healing centers as a “Medical office” use as defined in the 9-16-1, B.R.C.:

- *Office, medical* means the clinic or office of physicians, medical doctors, chiropractors, or dentists licensed to practice medicine or dentistry in the State of Colorado, where the primary use is the delivery of health care services, where sale of merchandise is incidental to the delivery of services. This use includes addiction recovery facilities that provide for the treatment of persons having drug or alcohol abuse problems under the supervision of professional health care or social services providers. With the exception of addiction recovery facilities which may permit short-term overnight stays, no overnight accommodations are provided.

Staff proposes this, because it would be most analogous to this use, since there would be licensed practitioners treating patients, it could have similar or less land use impacts as addiction recovery facilities (considered medical office), and the definition already does not permit overnight accommodations (except for addiction recovery facilities on a limited basis as noted in the definition). This approach is the same as many peer communities in Oregon, which have defined them as medical clinics or laboratories. In Oregon, medical offices are permitted in commercial zones with some communities either requiring a Conditional Use Permits (akin to Boulder’s Use Review process) in residential zones and others prohibiting the uses in residential zones.

Medical offices are permitted as allowed uses (some with specific floor area limitations) in the business, downtown, and mixed-use zones. They are permitted on a limited basis near the Boulder Community Health hospital facility in the industrial zone.

Use Review is required for any medical offices in most of the residential zones. It should be noted that state law does not permit licenses being issued for any natural medicine facility within 1,000 feet of any childcare center, preschool, elementary, middle, junior or high school or residential childcare facility (nearest property line to the uses using a direct pedestrian route).

At this time, staff has not identified that the natural medicine uses would have impacts above and beyond typical medical or therapy offices. For instance, the city does not require specific local licenses for other medical type establishments for their medical services since much of their operations are governed by federal and state law. Staff has not proposed more extensive reviews or standards for the facilities since the state is already developing comprehensive regulations for licensing etc.

Staff is not suggesting any limitations on hours of operation, since there may be instances of healing centers operating into the evening hours to avoid discharging patients that may not be ready to leave during typical office hours and also to not stand in the way of business that operate along traditional practices. However, to avoid impacts of late operation on residential uses, it may be advisable to restrict the uses from residential zones and near residential uses. Therefore, staff is recommending specific uses standards that would not permit medical offices that include use of psilocybin in residential zones or within 1,000 feet of any residential uses. These requirements would not require any special review but would be verified as part of building permit reviews and review of business licenses. This type of restriction would be consistent with other Oregon communities and would avoid any impacts to residential uses.

If City Council agreed with this approach, the land use code would be updated to define state licensed natural medicine uses and references would be added to the “medical office” definition. A distinction in the code from other medical offices would be a 1,000-foot distance requirement of healing centers from residential uses and code language specifying that medical offices including “natural medicine healing centers” would only be permitted where medical offices are permitted by-right. This would avoid healing centers being located in residential zones.

Zoning (Natural Medicine Cultivation Facilities, Natural Medicine Products Manufacturers, and Testing Facilities): Regulate Natural Medicine Cultivation Facilities, Natural Medicine Products Manufacturers, and Testing Facilities as “Light manufacturing” uses as defined in the 9-16-1, B.R.C., as follows:

- *Light manufacturing* means facilities for the manufacturing, fabrication, processing, or assembly of products, provided that such facilities are completely enclosed and provided that any noise, smoke, vapor, dust, odor, glare, vibration, fumes, or other environmental contamination produced by such facility is confined to the lot upon which such facilities are located and is regulated in accordance with applicable city, state, or federal regulations. Light manufacturing may include a showroom or ancillary sales of products related to the items manufactured on-site.

Based on the staff analysis above with respect to potential impacts of these uses, staff finds the cultivation facilities, product manufacturers or testing facilities have operating characteristics not unlike a full range of industrial uses that are already operating in the city in industrial zones. Like other industrial uses, there are other federal and/or state laws that regulate the safe operation of the uses. Like the healing centers use discussed above, the extent and volume needed for such facilities is significantly less than the space needed for marijuana facilities, which produce more product in terms of quantity and the space needed.

Light manufacturing is an allowed use in all the industrial zones and allowed with floor area limitations in the Industrial Services (IS) zones, the Business Community Service (BCS) zone and the Mixed-Use 4 (MU-4) zone.

If City Council agreed with this approach, the land use code would be updated to define natural medicine uses and potentially add a reference to the use in the “light manufacturing” definition.

Summary of Staff recommended approaches:

Licensing:

- No local licensing regime for natural medicine uses.

Zoning:

- Regulate natural medicine healing centers as a “Medical office” use. Create new specific use standards that only permit healing centers in areas where medical offices are permitted by-right and no closer than 1,000 feet from any residential use.
- Regulate Natural Medicine Cultivation Facilities, Natural Medicine Products Manufacturers, and Testing Facilities as “Light manufacturing” uses.

NEXT STEPS

Following City Council feedback on this topic, staff will move forward with drafting regulations on natural medicine with the goal of allowing council an opportunity consider adopting them before the end of the year and prior to when the state start issuing licenses for natural medicine uses. At present, the tentative schedule is for Planning Board consideration on Nov. 5 and first reading at City Council on Dec. 5. The second reading and public hearing on a natural medicine ordinance is tentatively scheduled for Dec. 19. If adopted, the changes would have to be adopted as an emergency ordinance, so that the regulations are in full effect when the state starts issuing licenses on Jan. 1, 2025. Staff also intends to continue monitoring what other Colorado communities are doing with respect to natural medicine and also engaging the community on the developing ordinance.

ATTACHMENTS

Attachment A – Natural Medicine Know the Law brochure

Attachment B – atta

Attachment C - Summary of Oregon and Colorado community approaches to regulating natural medicine



KNOW THE LAW

The following resource is intended to increase general awareness and does not include legal or medical advice. Please contact a qualified professional for additional information.






The Basics - Personal Use

- Natural Medicine includes: Psilocybin, psilocyn, ibogaine, mescaline, and dimethyltryptamine (DMT)
 - Mescaline cannot be sourced from peyote
- Personal possession, cultivation, and use provisions are already effective
 - **Possession:** no limits on personal possession limits
 - **Cultivation:** a person over 21 years of age can cultivate natural medicine in an **enclosed and locked space** no bigger than 12 feet by 12 feet on private property
 - **Use:** An adult (21+) can share with another adult (21+) in the context of “counseling, spiritual guidance, community-based use, supported use, or related services”
 - **Sale:** No one can sell natural medicine
 - » This does not preclude payment for bona fide harm reduction or support services

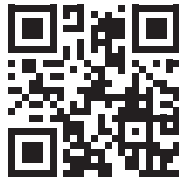
Reminders

- Open display and consumption are prohibited
 - There are still some offenses for violations of the law
 - Illegal for anyone under 21 to knowingly possess or consume
 - Illegal to cultivate in a space bigger than 12 x 12 or that is not an enclosed & locked space on private property
 - Manufacturing with inherently hazardous substances
 - **Advertising:** Personal use does not mean natural medicine activities for business or commercial purposes.
- 



Plan Ahead

- Effects of natural medicine can have delayed onset
- If you're planning on consuming natural medicine:
 - **Do your research:** learn more about natural medicines and potential effects before consuming
 - **Set and Setting:**
 - » Where you'll consume and be when the effects settle in
 - » Create a transportation plan. Do not drive or operate a vehicle after consuming
 - » Safe storage away from children and pets
- If you don't feel well, contact poison control or your doctor
 - If your condition worsens, go to your nearest Emergency Room or see a healthcare provider
 - For adverse health event help and advice, call poison control at 1-800-222-1222 or contact a qualified medical professional



Who To Contact

For information about licenses for healing centers, cultivations, manufacturers, or testing labs, contact the Department of Revenue at: DOR_NaturalMedicine@state.co.us

For information about facilitator training, licensing, or the Natural Medicine Advisory Board, contact the Department of Regulatory Agencies at: dora_natural_medicine@state.co.us



COLORADO
Department of Revenue
Natural Medicine Division



COLORADO
Department of Revenue

SB23-290 Natural Medicine Regulation & Legalization

NOTICE: This document reflects a summary and outline of SB23-290 prepared by the Department of Revenue and is for informational purposes only. The content herein should not be relied upon or construed as legal advice and does not represent the interpretation of any other agency.

I. BACKGROUND - PROPOSITION 122

- A. In November 2022 Colorado voted to pass [Proposition 122](#), the Natural Medicine Health Act, which (a) directed the establishment of a regulatory program for access to natural medicine; and (b) decriminalized personal use for adults
- B. Assigned the Department of Regulatory Agencies (DORA) with all regulatory responsibilities, including establishment of the [Natural Medicine Advisory Board](#)

II. SB23-290 REGULATORY PROGRAM

- A. **DORA** maintains the role of licensing and regulating Facilitators (persons licensed to provide natural medicine and related services). SB290 also maintained and added the following duties for DORA:
 - 1. Natural Medicine Advisory Board
 - 2. Federally Recognized Tribes & Indigenous Community Work Group
 - 3. Annual Reporting (in coordination with DOR)
- B. **The Department of Revenue (DOR)** is responsible for licensing and regulating healing centers, cultivations, manufacturers, and testing facilities under a new [Natural Medicine Division](#) and assigned the following duties to DOR:
 - 1. Testing and certification program (in coordination with CDPHE)
 - 2. Data collection (**LE incidents, adverse health events, healthcare system impacts, consumer protection claims, behavioral health impacts**)
 - 3. Public education campaigns
 - 4. Training materials for first and multi-responders
 - 5. Annual Reporting (in coordination with DORA)
- C. **Natural Medicine** defined to include only Psilocybin & Psilocyn initially

III. SB23-290 PERSONAL USE PROVISIONS

- A. **Natural Medicine** defined to include Psilocybin, Psilocyn, Ibogaine, Mescaline, and Dimethyltryptamine (DMT)
- B. **Personal Cultivation:** Not more than 12x12 feet (can be non-contiguous) on Private Property (defined) in enclosed & locked space
 - 1. Local authority to exceed the space limit
- C. **Personal Possession & Use:** No personal possession limit
 - 1. May share with an adult (21+) in context of counseling, spiritual guidance, community-based use, supported use, or related services
 - 2. No Remuneration (except allowed for bona fide harm reduction or support services used concurrently with sharing, subject to the following:
 - a) No advertisement related to sharing or services
 - b) Person sharing must inform if not a licensed Facilitator
 - 3. No manufacturing with Inherently Dangerous Substances (defined)
 - 4. No open and public display or consumption
 - 5. Personal testing by unlicensed labs allowed, subject to requirements
 - 6. Establishes [offenses](#) for violations

SB23-290 NATURAL MEDICINE REGULATION & LEGALIZATION

Detailed Bill Outline

- IV. **Department of Regulatory Agencies (DORA) - Title 12**
 - A. Definitions
 - B. Powers & Duties - Rulemaking Authority
 - C. Natural Medicine Board - Members & Duties
 - D. American Tribes & Indigenous Community Working Group
 - E. Facilitator Licensing - Requirements & Restrictions
 - F. Grounds for Discipline & Proceedings
 - G. Local Jurisdiction / Preemption
 - H. Protections
- V. **Department of Public Health & Environment (CDPHE) - Title 25**
 - A. Rulemaking - Testing & Certification
- VI. **Department of Revenue (DOR) - Title 44**
 - A. Definitions
 - B. Application Procedures
 - C. Protections - Employer, Schools, Hospitals, Detention Facilities
 - D. Local Jurisdiction Authority & Limitations
 - E. State Licensing Authority - Powers & Duties
 - 1. Licensing & Enforcement
 - 2. Reporting, Data Collection, Public Education, Training
 - F. Rulemaking - Mandatory & Permissive
 - G. Confidentiality
 - H. Application & Distance Restrictions
 - I. Classes of Licenses (Additional Rulemaking)
 - J. Protections
- VII. **Code of Criminal Procedure - Title 16 / Criminal Code - Title 18**
 - A. Class 1 & Class 2 Public Nuisance
 - B. Offenses
 - C. New Personal Use Provisions
- VIII. **Other - Additional Provisions**
 - A. Prohibiting Discrimination for Health Benefit Plan Coverage
 - B. Division of Adult Parole, State Board Parole, Conditions of Probation
 - C. Juvenile Court Jurisdiction
 - D. Child Neglect
 - E. Sealing of Criminal Conviction Records
 - F. Public Assistance Considerations
 - G. Organ Transplants
 - H. Farm Products - Defined (exclusion)
 - I. Income Tax & Net Income of Corporation

Natural Medicine Regulation & Legalization

SB23-290

Summary Based on - 4.24.23 [Version of Bill](#)

Department of Regulatory Agencies (DORA)

[DORA Natural Medicine Health Act Homepage](#)

SECTION 1	12-170-102. Legislative Declaration.
Declares intent and directs state agencies to honor and respect federally recognized tribes and indigenous people in order to prevent natural medicine being overly commodified / commercialized / misappropriated / exploited. Directs agencies to consider potential for direct and indirect harm.	
SECTION 2	12-170-103. Applicability of Common Provisions.
Applies Title 12, Art. 1 (General Provisions) & Art. 20 (Div. of Professions & Occupations) to Article 170.	
SECTION 3	12-170-104. Definitions. (P. 3-6)
<p>Defines: Administration Session; Board; Director; Division; Facilitation; Facilitator; Federally Recognized American Tribe; Healing Center; Health-Care Facility; Integration Session; Local Jurisdiction; Natural Medicine; Natural Medicine Product; Natural Medicine Services; Participant; Preparation Session; Regulated Natural Medicine; Regulated Natural Medicine Product; Remuneration; State Licensing Authority.</p> <p><u>Summary Definition - Natural Medicine:</u></p> <p>(12)(a) (I) Psilocybin; or (II) Psilocyn</p> <p>(12)(b)(II) Ibogaine (if recommended by the Board & agency approved);</p> <p>(12)(b) <u>ON OR AFTER JUNE 2026</u> (if recommended by the Board & agency approved):</p> <p>(I) Dimethyltryptamine (DMT)</p> <p>(III) Mescaline [does NOT include Peyote, meaning all parts of the plant classified botanically as Lophophora Williamsii Lemaire, whether growing or not; its seed; any extract from any part of plant, and every compound, salt, derivative, mixture, or preparation of the plant, or its seed or extracts]</p> <p>(12)(c): Natural Medicine <u>DOES NOT MEAN</u> a synthetic or synthetic analog of the substances, including a derivative of a naturally occurring compound of natural medicine that is produced using chemical synthetic, chemical modification, or chemical conversion.</p>	
SECTION 4	12-170-105. DORA - Director Powers & Duties - Rules (P. 6-10)
<p><u>(1)(a)(I) Rules for safe provision of regulated natural medicine and services, including:</u></p> <p>(A) Parameters for a preparation, administration, and integration session;</p> <p>(B) Health and safety warnings required before each session;</p> <p>(C) Educational materials that must be provided before each session;</p> <p>(D) A form a participant, facilitator, and authorized representative of the Healing Center must sign (establishes minimum requirements regarding health information, drug contraindications, participant expectations, parameters for physical contact, and risks of participation);</p> <p>(E) Proper supervision during the administration session and requirements for a discharge plan or safe transportation;</p>	

- (F) Provisions for group administration sessions;
- (G) Provisions to refuse services based on health and safety risks;
- (H) Dosage limits for administration sessions.

(1)(a)(II) Requirements for Facilitator licensing, practice and professional conduct, including:

- (A) Form and procedures for license applications;
- (B) Educational and experiential requirements and qualifications (including education and training on participant safety, drug interactions, contraindications, mental health and state, physical health and state, social and cultural considerations, preparation, administration, integration, and ethics). Must not require a separate professional license or degree (unless multiple tiers)
- (C) Oversight/supervision requirements, including continuing education
- (D) Professional standards of conduct
- (E) Parameters for physical contact, including informed consent for physical contact
- (F) Permitting remuneration for provision of natural medicine services
- (G) Group administration sessions and participant limits
- (H) Record-keeping, privacy, confidentiality (and exemptions)
- (I) Parameters for permissible and prohibited financial interests in a license
Financial Interest Restriction: A **Facilitator** cannot have a financial interest in more than five (5) NM business licenses.
- (J) Parameters for other authorized locations, including a health-care facility or private residence.
- (K) Standards for advertising and marketing, including to avoid misappropriation and exploitation of tribes and indigenous people, avoiding excessive commercialization, and targeting underage.

(1)(a)(III)-(V) Other Rules:

- (III) Rules necessary to differentiate between types of regulated natural medicine provided during an administration session based on qualities, traditional uses, and safety profile
- (IV)-(V) Other matters determined necessary to implement/administer

SECTION 4 (Continued)

12-170-105. DORA - Director Powers & Duties (P. 10-12)

(1)(b)-(k) DORA Duties Include:

- (1)(b) December 31, 2024 - DORA begins accepting applications/granting licenses
Prioritization of Applications: Shall prioritize review of applications from CO residents
- (c) Establish licenses, registrations, etc.
- (d) Establish, when financially feasible, procedures, policies, and programs to ensure rules are equitable and inclusive (for which the Director may consult the Board)
- (e) Conduct investigations and hearings, gather evidence, and pursue disciplinary actions
- (f) Take disciplinary action or limit scope of practice upon proof of violation
- (g) Cease-and-desist orders pursuant to Section 405
- (h) Petition a district court for an investigative subpoena or injunction under certain circumstances
- (i) Maintain an **ONLINE PUBLIC LIST** of licensees, registrants, etc, including whether the person had its credentials limited, suspended, or revoked
- (j) Publish an **ANNUAL REPORT** on the implementation/administration (in coordination with DOR)
- (k) Perform other functions and duties necessary to administer

Other Requirements & Limitations:

- (2) Director shall consult the Board when considering/promulgating rules
- (3) Authority to collect available and relevant data
- (4) Regulators prohibited from pecuniary gain from licensees for 6 months after employment

SECTION 5	12-170-106. DORA - Natural Medicine Advisory Board
<p><u>Creates Natural Medicine Advisory Board (2 and 4 year terms), Pg. 13</u> At expiration of term, the Governor shall appoint members, without consent of the Senate (4 year term). May serve up to 2 consecutive terms. Can be removed for misconduct, incompetence, neglect of duty, unprofessional conduct.</p> <p><u>Board Recommendation Subjects, Pg. 14-15:</u></p> <ul style="list-style-type: none"> ➤ Accurate public health approaches regarding use, benefits, harms, and risk reduction ➤ Content and scope of educational campaigns ➤ Research related to the efficacy and regulation, including product safety, harm reduction, and cultural responsibility ➤ Facilitator Requirements - Proper content of training programs, educational and experiential requirements, and qualifications. When making recommendations, the Board may consider: (I) Tiered facilitator licensing; (II) Limited waivers of education and training requirements based on experience, training, skills; (III) Removal of unreasonable or logistical barriers ➤ Affordable, equitable, ethical, and culturally responsible access to NM (may consider recommendations on ways to reduce costs of licensure, incentives for reduced costs for services, and incentives for services in geographic and culturally diverse regions) ➤ Regulatory considerations for each type of NM and each type of session ➤ Addition of other types of NM, based on medical, psychological, and scientific studies, research, and other information related to safety and efficacy - Shall prioritize consideration of Ibogaine ➤ All rules to be promulgated by DORA & DOR ➤ Requirements for accurate and complete data collection, reporting, and publication <p><u>Other Board Duties, Pg. 15:</u></p> <ul style="list-style-type: none"> ➤ Shall, on an ongoing basis: <ul style="list-style-type: none"> ○ Review and evaluate existing and current research, studies, and real-world data related to NM and make recommendations to the GA and agencies regarding coverage under health first Colorado or other insurance programs for various mental health conditions ○ Review and evaluate sustainability issues and impacts on tribal and indigenous cultures and documenting existing reciprocity efforts and continuing support measures needed ➤ Board shall publish an ANNUAL REPORT describing activities 	
SECTION 6	12-170-107. American Tribes & Indigenous Working Group (P. 16)
<p><u>Federally Recognized American Tribes & Indigenous Community Working Group</u></p> <ul style="list-style-type: none"> ➤ To avoid misappropriation, exploitation, excessive commercialization, conservation issues (including potential for further depletion of peyote due to it being a source of mescaline), best practices, and open communication to avoid unnecessary burdens. ➤ Shall advise the Board and DORA on findings and recommendations ➤ Encourages DORA To engage with those who have significant experience with traditional use 	
SECTION 7	12-170-108. License - Unauthorized Practice - Disclosures (P. 17)
<p><u>Facilitator License Requirements & Restrictions</u></p> <ul style="list-style-type: none"> ➤ Shall not engage in Facilitation or represent self as a Facilitator without a license ➤ Shall conspicuously display license in Healing Center, including info on how to file a complaint ➤ Shall provide specific information in writing prior to each session (P. 18) <ul style="list-style-type: none"> ○ Name, address, and phone # of the licensee; ○ Explanation of regulations applicable to the licensee; ○ Listing of training, educational and experiential requirements and qualifications satisfied 	

<ul style="list-style-type: none"> to obtain a license <ul style="list-style-type: none"> ○ Statement indicating the participant is entitled to receive information about services, may terminate services and may terminate informed consent for physical contact at any time ➤ Nothing prohibits a person from performing a bona fide religious, culturally traditional, or spiritual ceremony, but must inform that they are not a licensed facilitator and so long as the ceremony is not associated with commercial, business, or for-profit activity 	
SECTION 8	12-170-109. Grounds for Discipline (P. 19)
<p><u>DORA Permissive Authority to Take Disciplinary or Other Action Upon Proof of Following:</u></p> <ul style="list-style-type: none"> ➤ Violation of this Article 170 or rules, Article 20, or any valid order of DORA ➤ Convicted of or entered plea of nolo contendere to a felony ➤ Misstatement of an application or fraud, deception, or misrepresentation ➤ Act or omission necessary to meet generally accepted professional standards of conduct ➤ Excessive or habitual use or abuse of alcohol or controlled substances ➤ Guilty of unprofessional or dishonest conduct ➤ Advertising by means of false or deceptive statement ➤ Failure to display license as required ➤ Guilty of willful misrepresentation ➤ Failure to disclose within 45 days a conviction for a felony or any crime related to practice ➤ Aids/abets unlicensed practice of facilitation ➤ Fails to timely respond to a complaint end by the Director (DORA) pursuant to 12-170-110 	
SECTION 9	12-170-110. Disciplinary Proceedings (P. 20)
Establishes bases and process for disciplinary proceedings, including hearings and judicial review	
SECTION 10	12-170-111. Fees - Cash Fund (P. 21)
Establishes a cash fund. Shall set and adjust fees so revenue approximates the direct and indirect costs of the program. Fees shall not exceed the amount necessary to administer the Article.	
SECTIONS 11 & 14	12-170-112 & 115. Local Jurisdiction (P.21) / Preemption (P.23)
Consistent with Prop 122, local governments cannot prohibit Facilitation of NM Services and can not adopt ordinances/regulations that are unreasonable or in conflict with Article 170.	
SECTION 12	12-170-113. Protections (P. 22)
<p><u>Protections Include:</u></p> <p>(1)(a) Licensed activity and allowing use of property for licensed activity are not an offense under state or local law; are not subject to civil fine or sanction; are not a basis for detention, search, or arrest; and are not a basis to deny any right or seize or forfeit assets.</p> <p>(b) Contracts enforceable (federal prohibition does not render a contract unenforceable)</p> <p>(c) Mental health care, substance use services, or behavioral health services covered under the CO Medical Assistance Act, Title 25.5, Articles 4-6, cannot be denied on the basis of federal prohibition of NM. However, Insurance providers are not required to cover the cost of NM.</p> <p>(d) Nothing prevents the Director from enforcing rules or limits state or local LE to investigate unlawful activity in relation to a licensee.</p> <p>(2) Professional or occupational license not subject to professional discipline on the basis of federal prohibition, but this does not authorize conduct that violates standards of care or scope of practice.</p>	

SECTIONS 13-16	12-170-114 - 12-170-117. Construction & Repeal (P. 23)
<ul style="list-style-type: none"> ➤ Section 13. 12-170-114. Liberal Construction - Article 170 must be liberally construed ➤ Section 15. 12-170-116. Self-Executing, Severability, Conflicting Provisions - Provisions are self-executing except as specified and supersede conflicting state and local provisions ➤ Section 16. 12-170-117. Repeal & Review - Article 170 subject to review prior to repeal 9/1/2032 	
SECTION 17	12-20-407. Unauthorized Practice
Class 2 Misdemeanor if a person practices or offers or attempts to practice/engage in Facilitation	
Department of Revenue (DOR) - DOR Website & Department of Public Health & Environment (CDPHE) - CDPHE Website	
SECTION 18	24-1-117. Department of Revenue - New Division (P. 24)
Creates the DOR Natural Medicine Division, a type 2 entity (as defined in 24-1-105)	
SECTION 19	24-34-104. Review for Repeal or Continuation (P. 25)
September 1, 2032 - Scheduled repeal of Article 170 of Title 12 and Article 50 of Title 44	
SECTION 20	25-1.5-120. CDPHE - Testing and Standards - Rules (P. 25)
<p>CDPHE authority to establish (in coordination with DOR) rules for testing and certification. 44-50-203 also gives permissive authority for DOR to allow for personal use testing.</p> <p><u>Minimum testing rules must include:</u></p> <ul style="list-style-type: none"> ➤ Testing standards and certification requirements ➤ Independent testing and certification program within a timeline established by the DOR, to ensure products do not contain contaminants injurious to health and ensure correct labeling ➤ Quarantine and notification procedures if results indicate substances deemed injurious; ➤ Ensure testing verifies concentration representations and homogeneity for labeling; ➤ Acceptable variance for concentration and procedures to address misrepresentations; and ➤ Protocols and frequency of testing. 	
SECTION 21	PART 1: NEW ARTICLE 50 - CO Natural Medicine Code (P. 26)
Establishes Article 50 in Title 44 - The Colorado Natural Medicine Code, 44-50-101 - 102	
SECTION 21	PART 1: 44-50-103. Definitions (P. 27)
<p>44-50-103. Definitions: Consistent with Title 12 (underlined terms are new)</p> <p>Administration Session; Board; Director; Division; Facilitator; Healing Center; Health-Care Facility; Integration Session; <u>License</u>; <u>Licensed Premises</u>; <u>Licensee</u>; Local Jurisdiction; Natural Medicine; <u>Natural Medicine Business</u>; Natural Medicine Product; Natural Medicine Services; Participant; <u>Person</u>; Preparation Session; <u>Principle File</u>, Regulated Natural Medicine; Regulated Natural Medicine Product; Remuneration; State Licensing Authority; <u>Transfer</u></p>	

SECTION 21	PART 1: 44-50-104. Applicability (P. 32)
<p><u>Application Procedures</u></p> <ul style="list-style-type: none"> ➤ Requires SLA to <u>prioritize review</u> of applications from Colorado residents ➤ Application & License fees are credited to the Regulated Natural Medicine Cash Fund <p><u>Employer, School, Hospital, Detention Facility, Related Protections</u></p> <ul style="list-style-type: none"> ➤ Employers are not required to permit or accommodate NM use, consumption, possession, etc., or impairment in the workplace ➤ Employers may have policies restricting use or impairment in the workplace ➤ An employer, school, hospital, detention facility, corporation, or other entity that occupies, owns, or controls property can prohibit/regulate NM activities on such property <p><u>Local Jurisdiction Authority & Limitations</u></p> <ul style="list-style-type: none"> ➤ May enact ordinances/regulations governing time, place, manner of operation of licenses ➤ May NOT prohibit: <ul style="list-style-type: none"> ○ Establishment or operation of licenses ○ Transportation of NM on public roads by licensed persons ➤ May NOT adopt ordinances/regulations that are unreasonable or in conflict 	
SECTION 21	PART 2: 44-50-201. State Licensing Authority (P. 33)
<p>Establishes the DOR Executive Director as the State Licensing Authority (can delegate to NM Division Director), who may employ Department officers and employees as necessary.</p>	
SECTION 21	PART 2: 44-50-202. Powers & Duties of SLA (P. 33)
<p><u>Licensing & Enforcement: PP. 33-34</u></p> <ul style="list-style-type: none"> ➤ December 31, 2024 - DOR begins accepting applications/granting licenses ➤ Authority to suspend, fine, restrict, revoke licenses (active, expired, or surrendered) ➤ Conduct investigations and hearings, gather evidence, and pursue disciplinary actions ➤ Petition a district court for an investigative subpoena to unlicensed persons after reasonable efforts to obtain requested documents/information ➤ Petition a court to temporarily restrain or enjoin action of an unlicensed person when the NM Division director finds sufficient evidence that the person has or is committing a prohibited act and such act (A) threatens public health or safety; or (B) constitutes an unlawful act ➤ Hearing procedures and authority ➤ Develop forms, licenses, ID cards, and applications <p><u>Reporting, Public Education & Training: PP. 34-36</u></p> <ul style="list-style-type: none"> ➤ In coordination with DORA, publish an ANNUAL REPORT on the implementation/administration (must not include information that could disclose the identity of a participant) <ul style="list-style-type: none"> ○ DATA COLLECTION REQUIREMENT (to include in annual report): In coordination with other agencies, the SLA shall request data concerning LE incidences / adverse health events / impacts to health care systems / consumer protection claims / and behavioral health impacts ➤ Develop and promote PUBLIC EDUCATION CAMPAIGNS (including public service announcements, educational materials, and crisis response materials) ➤ Develop and promote TRAINING MATERIALS for first responders and multi-responders (LE, emergency medical providers, social service providers, fire fighters) <p><u>Other Duties & Limitations: PP. 35-36</u></p> <ul style="list-style-type: none"> ➤ SLA cannot fix prices for regulated NM ➤ Nothing requires LE ability to investigate unlawful activity related to a licensee ➤ LE has authority to run a criminal history record check during an investigation of unlawful activity 	

- Establish, when financially feasible, procedures, policies, and programs to ensure rules are equitable and inclusive (for which the SLA may consult the Board)

SECTION 21**PART 2: 44-50-203. Rulemaking Authority (P. 37)****DOR MANDATORY RULEMAKING****General Licensing:**

- Licensing procedures & requirements (for issuance, denial, renewal, reinstatement, modification, suspension, and revocation)
- Oversight requirements for licensees
- A schedule of application, licensing, and renewal fees

Qualifications and eligibility requirements for licensure

- Tax Compliance: Eligibility includes requirements for timely payment of state taxes, timely filing of returns, and timely curing of tax deficiencies. Authorizes the DOR to have access to licensing information to ensure compliance.

Permitted and prohibited financial interests:

- A Person cannot have a financial interest in more than five (5) NM business licenses

Testing Program: DOR rules in coordination with CDPHE

- Establishment of a natural medicine independent testing and certification program.
- At a minimum, to ensure product does not contain contaminants injurious to health and to ensure correct labeling
- Certification requirements and requirements that results cannot be used unless the lab is certified
- Testing procedures and frequency
- Whether to allow unlicensed persons to request/utilize testing services of regulated labs
- Definitions, permissions, and prohibitions concerning conflicts of interest
- Procedures and requirements necessary for coordination with CDPHE duties

Regulation of Licensed Premises:

- Co-location of a Healing Center with another Healing Center or Health-Care Facility

Transportation Requirements:

- Security requirements
- Vehicle requirements, including surveillance
- Limits on amounts that may be carried in a vehicle
- Record keeping
- Transport manifest

Production Management

- Limits on the amount of NM allowed for production by licensees based on metrics
- Shall consider total current and anticipated demand

Record Keeping

- Records licensees are required to maintain and make available for inspection by the SLA

Other

- Requirements to prevent diversion
- Requirements to prevent underage access
- Permitted and prohibited transfers of NM between licensees
- Standards for advertising/marketing (including avoiding misappropriation and exploitation of tribes and indigenous people / avoiding excessive commercialization)

DOR PERMISSIVE RULEMAKING (P. 40)

- Establishment of licenses
- Principle file process
- Product requirements and restrictions
- Packaging and labeling requirements, including warning labels, serving and per-package serving amounts; and concentration of product
- Security and surveillance, among other minimum procedures for internal control
- Reporting requirements for changes
- Health and safety standards and sanitary requirements
- Waste handling/disposal
- Storage and transportation
- Inventory tracking/management
- Procedures for disciplinary actions
- Penalties schedule
- Specifications of duties of officers/employees of SLA
- Guidance for law enforcement
- Inspections and investigations (including searches, seizures, forfeitures, embargo, quarantine, recalls, and such additional activities as may become necessary)
- Prohibition on misrepresentation and unfair practices
- Other matters as necessary

Other Requirements & Limitations (P. 43)

- Shall consult the advisory board when considering and promulgating rules
- May establish procedures for conditional issuance of an employee license and ID at time of application (remains subject to denial pending results of criminal history check)
- Fingerprint requirements - by local LE agency or third party approved by CBI (requirement for SLA to send fingerprints to CBI for processing)

SECTION 21	PART 2: 44-50-204. Confidentiality (P. 43)
Gives similar protections and exemptions as in the Marijuana Code. Certain licensee information must be maintained as confidential (e.g. financial records, security plans) with limited exceptions	
SECTION 21	PART 3: 44-50-301. Classes of Licenses (P. 44)
<ul style="list-style-type: none"> ➤ Creates licenses issued by DOR: Healing Center, Cultivation, Manufacturer, Testing Facility, Occupational license (with authority to establish other licenses as necessary for implementation) ➤ Authorizes a state chartered bank or credit union to loan money to licensees ➤ Prohibits operation of a license at the same location as a license or permit issued under Articles 3, 4, 5, or 10 of Art. 44 (alcohol, fermented malt beverages, special event liquor permits; marijuana) 	
SECTION 21	PART 3: 44-50-302. Application & Distance Restrictions (P. 45)
<ul style="list-style-type: none"> ➤ Distance restrictions, including within 1,000 feet of a child care center, preschool, elementary, middle, junior, or high school, or residential child care facility or if not permitted by local zoning. ➤ Local jurisdictions may vary the distance restrictions or may eliminate facilities from restrictions. ➤ Application approval requires the applicant to demonstrate it is or will be entitled to possession of premises via lease, rental agreement, ownership, or other arrangement. 	
<i>CONTINUES TO NEXT PAGE</i>	

SECTION 21	PART 4: 44-50-401. Healing Center (P. 47)
<p><u>General Requirements & Restrictions</u></p> <ul style="list-style-type: none"> ➤ License may be issued only to a person that employs or contracts with a Facilitator ➤ May transfer regulated NM to another HC ➤ Prior to initiating NM Services, a Facilitator shall verify the Participant is 21+ ➤ Shall comply with all provisions of Article 34, Title 24, as related to persons with disabilities <p><u>Additional Rulemaking Authority</u></p> <ul style="list-style-type: none"> ➤ Shall not transfer more than amount permitted by rule in a single Administration Session ➤ SLA may establish exemptions to the above administration limitations and may establish record-keeping requirements for HCs pursuant to any such exemption 	
SECTION 21	PART 4: 44-50-402. Cultivation Facility (P. 48)
<p><u>Transfer Allowances/Restrictions</u></p> <ul style="list-style-type: none"> ➤ License may be issued only to a person who cultivates regulated NM for transfer and distribution to NM healing centers, manufacturers, or other cultivations <p><u>Activities Restricted on Premises</u></p> <ul style="list-style-type: none"> ➤ NM cannot be consumed on the premises unless co-located with HC premises 	
SECTION 21	PART 4: 44-50-403. Product Manufacturer (P. 48)
<p><u>General Requirements & Restrictions</u></p> <ul style="list-style-type: none"> ➤ License may be issued only to a person who manufactures regulated NM products ➤ Licensee shall NOT: <ul style="list-style-type: none"> ○ Add regulated NM to a food product that holds a trademark, unless it's used only as a component or as part of the recipe and only if the licensee does not state or advertise to the consumer that the final product contains a trademarked product ○ Intentionally or knowingly label or package in a manner that would cause reasonable confusion as to whether the product was trademarked ○ Label or package in a manner that violates federal trademark law/regs <p><u>Activities Restricted on Premises</u></p> <ul style="list-style-type: none"> ➤ NM cannot be consumed on premises unless co-located with HC premises 	
SECTION 21	PART 4: 44-50-404. Testing Facility (P. 49)
<p><u>General Requirements & Restrictions</u></p> <ul style="list-style-type: none"> ➤ License may be issued only to a person who performs testing and research on NM ➤ Testing is a matter of statewide concern ➤ A testing licensee cannot have an interest in another NM business license <p><u>Additional Rulemaking Authority</u></p> <ul style="list-style-type: none"> ➤ Acceptable testing and research practices, including but not limited to: <ul style="list-style-type: none"> ○ Standards ○ Quality control analysis ○ Equipment certification and calibration ○ Identification of chemicals and other substances used in bona fide research methods ○ Whether to allow persons 21+ to request and use testing services for personal use 	

SECTION 21	PART 5: 44-50-501. Unlawful Acts (P. 50)
<ul style="list-style-type: none"> ➤ Knowingly transfer to person under 21 ➤ Knowingly adulterate or alter test samples (or attempt to do so) 	
SECTION 21	PART 6: 44-50-601 - 602. Fees (P. 50)
<p><u>Establishes the Regulated Natural Medicine Division Cash Fund</u></p> <ul style="list-style-type: none"> ➤ Fees must cover direct and indirect costs of agency operations to implement and administer ➤ May charge for the cost of each fingerprint analysis and background investigation to qualify new officers, directors, managers, or employees ➤ Shall annually review and, if necessary, adjust fees to reflect direct and indirect costs ➤ Fees must not exceed the amount necessary to administer ➤ Shall also establish a subpoena fee (not applicable to government agencies) 	
SECTION 21	PARTS 7 - 8: 44-50-701 - 801. Disciplinary Actions (P. 52)
Establishes process for disciplinary actions with notice, hearing, and judicial review.	
SECTION 21	PART 9: 44-50-901. Protections, Construction, Preemption, Severability (P. 53)
<p><u>44-50-901. Protections (PP. 53-54)</u></p> <ul style="list-style-type: none"> ➤ Licensed activity and allowing use of property for licensed activity are not an offense under state or local law; are not subject to civil fine or sanction; are not a basis for detention, search, or arrest; and are not a basis to deny any right or seize or forfeit assets. ➤ Contracts enforceable (federal prohibition does not render a contract unenforceable) ➤ Licenses under this Article are not subject to professional discipline for providing advice or services related to NM on the basis of federal prohibition, but does not authorize malpractice. ➤ Mental health care, substance use services, or behavioral health services covered under the CO Medical Assistance Act, Title 25.5, Articles 4-6, cannot be denied on the basis of federal prohibition of NM. However, Insurance providers are not required to cover the cost of NM. ➤ Nothing prevents the Director from enforcing rules or limits state or local LE to investigate unlawful activity in relation to a licensee. <p><u>44-50-902 - 904. Construction, Preemption, Severability (P. 55)</u></p> <p>Article 50 must be liberally construed to effectuate its purpose; local jurisdictions cannot adopt any ordinance, rule, or resolution in conflict with this Article; If any provision of this Article is found to be unconstitutional, the remaining provisions are valid.</p>	
SECTION 21	PART 10: 44-50-1001. Sunset Review & Repeal (P. 55)
Effective September 1, 2032 ; Scheduled for Sunset Review under 24-32-104(5)	
TITLE 16 CODE OF CRIMINAL PROCEDURE	
SECTIONS 22 -23	PART 10: 16-13-303 - 304. Class 1 & 2 Public Nuisance (P. 55)
Not a Class 1 or 2 public nuisance if in compliance with 18-18-434, Title 12, or Title 44	

TITLE 18 CRIMINAL CODE	
SECTIONS 24 - 26	18-18-403.5. Unlawful Possession of Controlled Substance 18-18-404. Unlawful Use of Controlled Substance 18-18-405. Unlawful Distro, Manufacturing, Dispense, Sale
Exemptions if in compliance with Title 12, Title 27, Title 18, and Title 44	
SECTION 27	18-18-410. Declaration of Class 1 Public Nuisance (P. 57)
Exemptions regarding use of places for storage, manufacture, sale, or distribution	
SECTION 28	18-18-411. Property & Controlled Substances (P. 57)
Exemptions for persons (keeping, controlling, renting, making property available for distribution or manufacture) if in compliance with 18-18-434, Article 170 of Title 12, or Article 50 of Title 44	
SECTION 29	18-18-412.7. Sale or Distribution of Materials to Manufacture CS
Exemptions if in compliance with 18-18-434, Title 12, and Title 44	
SECTION 30	18-18-430.5. Drug Paraphernalia - Exemption (P. 58)
Exemptions from 18-18-425 - 18-18-430 if using equipment, products, or materials in compliance	
SECTION 31	NEW 18-18-434. Offenses Relating to Natural Medicine (P. 58)
<p align="center"><u>NEW PERSONAL USE PROVISIONS FOR NATURAL MEDICINE</u></p> <p align="center">OFFENSES P. 58</p> <p><u>(1) Persons under 21 Years of Age - Knowingly Possess or Consume</u> P. 58</p> <p><i>*Aligns with 18-13-122 for MJ</i></p> <ul style="list-style-type: none"> ➤ Drug petty offense - subject to: <ul style="list-style-type: none"> ○ Fine of not more than \$100; OR ○ Not more than four (4) hours of substance use education or counseling ➤ Second or subsequent conviction: <ul style="list-style-type: none"> ○ Fine of not more than \$100 ○ Not more than four (4) hours of substance use education or counseling; AND ○ Not more than twenty-four (24) hours of useful public service <p><u>(2) Open and Public Display or Consumption:</u> P. 58</p> <p><i>*Aligns with 18-18-406(5)(b) for MJ</i></p> <ul style="list-style-type: none"> ➤ Drug petty offense - subject to: <ul style="list-style-type: none"> ○ Fine of not more than \$1,000; AND ○ Not more than twenty-four (24) hours of useful public service. <p><u>(3)(a) Knowing Cultivation (or allowance) - Private Property Exceeding 12x12 (non-contiguous)</u> P. 59</p> <p><i>*Aligns with lowest level penalty in 18-18-406(3) for MJ</i></p> <ul style="list-style-type: none"> ➤ Drug petty offense - subject to: Fine of not more than \$1,000 	

(3)(b) Knowing Cultivation (or allowance) - Private Property Enclosed & Locked Space P. 59

**Aligns with lowest level penalty in 18-18-406(3) for MJ*

- **Drug petty offense** - subject to: Fine of not more than \$1,000

(4) Knowing Manufacture w/Inherently Hazardous Substances P. 60

**Aligns with 18-18-406.6 for MJ*

- **Level 2 Drug Felony** - Unlawful to knowingly manufacture or allow manufacture of NM Product using an **Inherently Hazardous Substance**
- **Defined:** Any liquid, chemical, compressed gas, or commercial product that has a flash point at or lower than 38 degrees celsius or 100 degrees fahrenheit, including butane, propane, and diethyl ether, and excluding all forms of alcohol and ethanol)

PERSONAL USE P. 59

Personal Cultivation

- Limited to an area not more than **12x12 feet** on Private Property
- 12x12 space not required to be contiguous
- A local jurisdiction may allow cultivation exceeding the space limit
- Defines **"Private Property"**
 - A dwelling, its curtilage, and a structure within the curtilage being used for habitation and that is not open to the public.
- 18-18-434(3)(b)(II) - Not a violation if:
 - The person is 21+; AND
 - The cultivation area is located in a dwelling on the Private Property; AND
 - If an underage person lives at the dwelling, the cultivation is enclosed and locked.
 - If no underage person lives at the dwelling, the external locks on the dwelling constitute an enclosed and locked space, **BUT**
 - If a person underage lives at the dwelling, shall ensure access is reasonably restricted

(5)(b) Personal Use Testing Allowances - via Unlicensed Labs P. 60

- Allows a person to perform testing for persons 21+ (for personal use) if:
 - The person gives written notice that they are not licensed by the state to conduct testing; &
 - The person who submits samples gives a signed statement that the natural medicine is for personal use only

(5)(c) Nothing in this Section Permits the Following P. 61

- Underage access
- Remuneration except as allowed
- Engage in personal use actions related to natural medicine other than as allowed
- Engage in action as part of a business promotion or commercial activity except as allowed
- Dispense, sell, or distribute, or possess Ibogaine w/intent to distribute except as allowed

(5)(d) - (10) Law Enforcement & Local Jurisdiction Limitations P. 61

- Shall not arrest or charge or prosecute for an offense involving natural medicine except as expressly provided in this Section (may arrest, charge, or prosecute for an offense not expressly lawful under Titles 12 and 44)
- A lawful action cannot be the sole reason to
 - (a) subject a person to a civil fine, penalty, or sanction
 - (b) deny a person a right or privilege; or
 - (c) seize or forfeit assets
- A lawful action cannot be the sole factor in a probable cause determination. Such action can be

used as a factor IF:

- The original stop or search was lawful; AND
- Other factors are present to support a PC determination
- Entitlement to consume does not constitute a defense against a charge for violation related to operation of a vehicle, aircraft, boat, machinery, or other device
- A local jurisdiction shall not impose any greater criminal or civil penalty

(11) Exceptions for Living Plants for Ornamental Purposes

Offenses do not apply to a living plant for ornamental purposes (plants commonly and lawfully sold prior to this Act). A living plant does not include mushrooms or other fungal matter

Defines Natural Medicine P. 63

- Means: (A) Dimethyltryptamine (B) Mescaline; (C) Ibogaine; (D) Psilocybin; or (E) Psilocyn
- Exclusions:
 - Natural Medicine does **NOT** mean a synthetic or synthetic analog of the substances, including a derivative of a naturally occurring compound of natural medicine that is produced using chemical synthetic, chemical modification, or chemical conversion.
 - Mescaline does **NOT** include Peyote, meaning all parts of the plant classified botanically as *Lophophora Williamsii* Lemaire, whether growing or not; its seed; any extract from any part of plant, and every compound, salt, derivative, mixture, or preparation of the plant, or its seed or extracts.

Defines Personal Use P. 64

- Consumption or use of Natural Medicine or Natural Medicine Product; or
- The amount a person may lawfully possess, cultivate, or manufacture that is necessary to share with another person 21+ within the context of:
 - Counseling
 - Spiritual guidance
 - Beneficial community-based use and healing; or
 - Supported use or related services
- Does NOT mean:
 - Remuneration;
 - Possession, cultivation, or manufacture with intent to sell for remuneration;
 - Possession, cultivation, manufacture, or distribution for business or commercial purposes
- Does not preclude Remuneration for bona fide harm reduction or support services used concurrently with sharing. IF:
 - No advertisement related to sharing or the services AND
 - The individual giving services informs they are not a licensed Facilitator

OTHER

SECTION 32

10-16-158. Prohibiting Discrimination for Coverage (P. 65)

- Carriers shall not, solely on the basis of consumption, decline or limit health benefit plan coverage of a person or penalize covered persons or reduce or limit coverage; shall not deny, decline, or limit coverage for an organ transplant or related service; shall not decline or limit coverage for the purpose of avoiding the requirements of this section; shall not penalize, reduce, or limit coverage for healthcare services related to organ transplantation.
- However, does not require a plan to provide coverage for the donation of an anatomical gift, transplant, or related treatment or services

SECTION 33 - 35	17-2-102. Division of Adult Parole (P. 66) 17-2-201. State Board Parole (P. 67) 18-1.3-204. Conditions of Probation (P. 67)
<ul style="list-style-type: none"> ➤ Exempts subsection (8.5)(d) from a parolee who possesses or uses NM as authorized ➤ Possession or use authorized under this law cannot be considered a violation of parole conditions 	
SECTION 36	19-2.5-103. Juvenile Court Jurisdiction (P. 67)
Juvenile court exclusive original jurisdiction concerning a juvenile 10 yrs + involving natural medicine	
SECTION 37	19-3-103. Child Neglect (P. 68)
Actions lawful in Titles 12, 18, 44 do not constitute neglect and a court shall not restrict or prohibit family time or make similar determinations, UNLESS a court determines family time would endanger the child's physical health or significantly impair the child's emotional development.	
SECTION 38	24-72-706. Sealing of Criminal Conviction Records
<p>(1)(f.5) Can file a motion for the sealing of conviction records for an offense that is no longer unlawful. If a motion is filed, the defendant shall provide notice to the DA, who (within 42 days from receipt of the motion) may object after considering specific factors.</p> <ul style="list-style-type: none"> ➤ If no DA objection, the court may grant with or without a hearing ➤ If DA objection, shall set the matter for hearing ➤ Burden is on the defendant - preponderance of evidence standard ➤ The defendant's motion is NOT required to include a verified copy of a criminal history ➤ Must not be charged fees/costs for filing a motion pursuant to this section 	
SECTION 39	24-76.5-104. Public Assistance Considerations (P. 70)
Eligibility does not require consideration related to natural medicine unless required by federal law	
SECTION 40	25-56-104.5. Discrimination for Organ Transplants (P. 70)
<ul style="list-style-type: none"> ➤ Limitations and requirements for covered entities that provide coverage related to the organ transplant process. Requirements for covered entities include: (a) making reasonable modifications to policies, practices, and procedures; (b) take reasonable and necessary steps to ensure consumption is not the reason for denial of services, unless the entity demonstrates such steps would fundamentally alter the nature of services or result in undue burden for the entity. ➤ Does not require the entity to make a referral or perform a medically inappropriate transplant. 	
SECTION 41	35-36-102. Rules - Definitions (P. 72)
Amends the definition of "Farm Products" to exclude NM as defined under Title 12 (<i>similar to MJ</i>)	
SECTIONS 42-43	39-22-104 & 304. Income Tax & Net Income of Corporation (P. 72)
For tax years commencing on or after Jan. 1, 2024, a Title 44 licensee can subtract expenditures eligible to be claimed as a federal income tax deduction, but is disallowed by 280E of the IRS Code	
SECTIONS 44	Appropriation (P. 73)

Appropriates funding to agencies for purposes of implementation

SECTION 45

Effective Date and Safety Clause (P. 74)

Effective July 1, 2023, applies to offenses committed on or after July 1, 2023

END

ATTACHMENT C

Summary of Oregon and Colorado community approaches to regulating natural medicine

Oregon Regulations on Natural Medicine

A useful analogue to Colorado communities is the state of Oregon, since it was the first to pass legislation on natural medicine. [Ballot Measure 109](#), the Psilocybin Program Initiative, was approved on November 3, 2020 by Oregon voters and legalized psilocybin in Oregon subject to the criteria noted in the measure and subsequent rulemaking. The Oregon measure is a bit different from the Colorado law, in that, like Colorado's rules for marijuana, it allows communities to "opt out" in the next general election, which was November 8, 2022. That is not the case for natural medicine where the rules in Colorado do not allow an opt out option. The specific regulations on Psilocybin Service Centers can be found at this [link](#). A resource guide on psilocybin can be found at this [link](#).

A summary of the state rules is as follows:

- Psilocybin can only be purchased at state regulated service centers and must be consumed on site with trained facilitator
- Manufacturers can only sell their products to licensed service centers
- Customers cannot leave the premises with the drug
- There are time limits on how long a customer must stay on site for "treatment" based on dosage, and whether or not it is a returning customer
- Oregon Health Authority approves licensing applications and ensures businesses meet state requirements- before this the city has to fill out a form that certifies the business/building meets land use code
- Sessions cost around \$3,000-\$4,000 – not covered by insurance, can last up to 15 hours long

As Oregon law allows communities to "opt out", many have, which are included on this [list](#). A summary of communities that permit "Psilocybin Service Centers" and like uses is below:

Jurisdiction	Summary
Deschutes County, OR	<ul style="list-style-type: none">• Deschutes County attempted to do a public vote to prohibit natural medicine uses, but the vote did not pass• Psilocybin service centers are, therefore, specifically defined and allowed as a conditional use in the DR-Destination Resorts zone• Permitted as a conditional use in most of the commercial and mixed-use zones
Bend, OR	<ul style="list-style-type: none">• Natural medicine uses are not specifically regulated other than that they are categorized under existing medical office and manufacturing uses. Otherwise, all rules are deferred to the state.
Eugene, OR	<ul style="list-style-type: none">• Regulates psilocybin service centers as medical clinics• Permitted in the commercial zones• Permitted in residential zones with conditional use permit

	<ul style="list-style-type: none"> • Applicants must fill out a Land Use Compatibility Statement (LUCS)
Portland, OR	<ul style="list-style-type: none"> • Regulated similar to marijuana dispensaries • Categorized as psilocybin businesses but using existing use categories as follows: <ul style="list-style-type: none"> ○ <i>Service Centers: Office</i> ○ <i>Retreat Centers: Retail Sales and Service (entertainment-oriented)</i> ○ <i>Growing of fungi: Agriculture</i> ○ <i>Extraction/Processing/Production: Manufacturing and Production</i> ○ <i>Testing of products: Industrial Service.</i> • Not permitted in residential zones
Salem, OR	<ul style="list-style-type: none"> • Regulated as medical offices (outpatient medical services and laboratories) and permitted in commercial and mixed use zones • Manufacturing facilities are considered “Agricultural Use” which is allowed in most zones but prohibited in residential areas.

How are other Colorado communities addressing the state legislation? What regulatory and licensing approaches are the other communities taking?

Most Colorado communities have not specified the approach they intend to take on natural medicine uses as they are in a “wait and see” stance during the rulemaking process. Most of the communities have not specifically decided on how they will address natural medicine uses, although Aurora, Fort Collins, and Thornton are contemplating regulating them as allowed medical office and industrial uses per the current regulations with no special review and leaving the licensing to the state rather than the local authority. Durango appears to be leaning towards regulating them the same as marijuana establishments.

Parker is the first Colorado community to pass local zoning regulations on natural medicine uses. In Parker, natural medicine uses are specifically defined, and healing centers are permitted as allowed uses in the business and commercial zones, but prohibited in the residential zones. Cultivation, manufacturing, and testing facilities are permitted in the industrial zones and have additional requirements such as meeting safety protocols, prohibition of hazardous materials, and that non-hazardous materials used in processing must be stored so they are not detectable beyond property boundaries. Parker also adds additional requirements above the state law as follows:

- Natural medicine uses shall be no closer than 1,000 feet from any residential uses;
- Hours of operation are limited to 8am to 5pm, Monday through Friday;
- Restrictions on the ability to view into establishments, outdoor lighting, outdoor storage, odors, and disposal; and
- Violations and fines above the state penalties.