

MEMORANDUM

To: Mayor Shore and City Council
From: City Attorney's Office – Betsy L. Stewart
Date: February 25, 2025
Re: Work Session - Natural Medicine Act and Natural Medicine Code

A. Introduction

This memo contains an overview of the laws and regulations surrounding natural medicine, as well as sample ordinances, to assist Council in understanding the state of the law and the manner in which natural medicine can be regulated by the City.

B. Historical Background of the Natural Medicine Act

In 2022 Colorado voters adopted Proposition 122 which is now codified as the Natural Medicine Act (NMA) in C.R.S. § 12-170-101, *et seq.* In 2023, the legislature adopted the Natural Medicine Code (NMC) which sets forth additional guidelines for the use and cultivation of natural medicine in C.R.S. § 44-50-101, *et seq.*¹

In short, Colorado voters determined that natural medicine should be utilized as an additional tool to address mental health issues in the state.² As a result, the purpose of the NMA is to establish a “new, compassionate, and effective approach to natural medicine” by (1) removing criminal penalties for personal use of natural medicine for adults 21 years of age and older; (2) developing and promoting public education regarding the use of natural medicine and appropriate training for first responders; and (3) establishing regulated access by adults 21 years of age and older to natural medicines that show promise in improving well-being, life satisfaction, and overall health.³ The legislature also recognized that the NMA and its regulations must balance the health and safety risks to consumers and the cultural harms it could cause to American tribes and Indigenous and traditional communities with connections to natural medicine.⁴

The Department of Regulatory Agencies (DORA) recently issued licensure and training regulations for natural medicine facilitators.⁵ Meanwhile, the Colorado Department of Revenue's (DOR) regulations address all regulated natural medicine and natural medicine product businesses for the purposes of the cultivation, manufacturing, testing, storage, distribution, transport, transfer, dispensation, and licensure fees.⁶

¹ See <https://www.cpr.org/2023/06/21/colorado-psychedelic-law-for-psilocybin-mushrooms/> for a Colorado Public Radio News Article re: the historical background of Proposition 122.

² C.R.S. § 12-170-102(1).

³ C.R.S. § 12-170-102(1)(j).

⁴ C.R.S. § 12-170-102(2)(d).

⁵ 4 CCR 755-1.

⁶ 1 CCR 213-1.

C. Analysis of the NMA, NMC, and Regulations

1. What is natural medicine?

The term “natural medicine” currently applies to the hallucinogenic compounds of psilocybin and psilocin found in psychedelic mushrooms.⁷

2. How can natural medicine be used?

a. Personal Cultivation and Personal Possession

Personal cultivation of natural medicine is permitted on private property in an enclosed and locked space in an area of no more than 12 feet x 12 feet. Such cultivation area can be non-contiguous, i.e. in one 12 x 12 plot or twelve 1 x 1 plots, etc. Municipalities are permitted to exceed the space limitation by ordinance or resolution.

Unlike the state’s personal possession limit of 2 ounces for marijuana, there is no limit on personal possession of natural medicine in the state for adults 21 years of age and older (21+). 21+ adults can share natural medicine with other 21+ adults in the context of counseling, spiritual guidance, community based use, supported use, or related services so long as no remuneration is received except in bona fide harm reduction or support services used concurrently with sharing. It is important to note that the open and public display or consumption is prohibited as is the unlawful distribution and possession of natural medicine by or to individuals under the age of 21.⁸

b. Natural Medicine Healing Centers

A Natural Medicine Healing Center is a state licensed facility in which a facilitator can provide and supervise natural medicine services to a participant. Participants must be 21+ to receive natural medicine services by and under a facilitator’s services and a facilitator is a 21+ licensed individual with necessary qualifications, training, experience, and knowledge required by law to perform and supervise natural medicine services for a participant.⁹ The administration of natural medicine in a Healing Center consists of the following three phases:

- A “preparation session” meeting between a participant and facilitator that occurs before an administration session;
- An “administration session” at a healing center or other permitted location where a participant consumes and experiences the effects of regulated natural medicine under the supervision of a facilitator; and
- An “integration session” between a participant and a facilitator after the administration session is completed.

⁷ C.R.S. § 12-170-104(12)(a)(I)-(II). However, C.R.S. §§ 12-170-104(12)(b)(I)-(III) and (d) permit the state licensing authority to extend this definition to include dimethyltryptamine (DMT) and mescaline (excluding peyote) on or after June 1, 2026 and ibogaine at any time.

⁸ See C.R.S. § 18-18-434 regarding *Offenses relating to natural medicine and natural medicine products*.

⁹ C.R.S. §§ 12-170-104 and 44-50-103 and 4 CCR 755-1-1.4

DORA's regulations establish time frames that a participant must remain in an administration session under a facilitator's care based on dosage administered as a way to prevent impaired driving.¹⁰ Natural medicine product is not permitted to leave a licensed Healing Center except in narrow circumstances when a facilitator is traveling to another location for an administrative session and any unconsumed product must be returned to a Natural Medicine business.¹¹ Finally, as a general rule, Healing Centers must be at least 1,000 feet from a licensed childcare center, preschool, elementary, middle, junior, or high school, or a residential child care facility.¹²

3. *What does the NMA mean for municipalities?*

a. What is prohibited?

The NMA and Regulatory Act establish that a municipality cannot prohibit the establishment or operation of a business with the purpose of cultivating, manufacturing, testing, storing, distributing, transporting, transferring, or dispensing natural medicine within its boundaries nor can it prohibit a properly licensed facilitator from providing natural medicine services in a Healing Center within its boundaries.¹³ Municipalities also cannot prohibit the transportation of natural medicine or natural medicine product within its boundaries on public roads by a person licensed to exercise such privileges nor can it adopt ordinances or regulations that are unreasonable or conflict with the NMA or the NMC.¹⁴ However, it is important to note that state laws and regulations do not allow natural medicine dispensaries where an individual can purchase natural medicine over the counter (as they can do with marijuana in a marijuana dispensary) and take it home for personal use off premises.

b. What is permitted?

The City may enact ordinances or regulations governing the time, place, and manner of the operation of natural medicine related licenses within its boundaries.¹⁵ Practically speaking, this means the City can restrict hours of operation, enact zoning ordinances to locate the area where cultivation, manufacturing, testing, storage, distribution, transfer, and dispensation of natural medicine and natural medicine product occurs, and set additional distance requirements within the vicinity of a child care center, preschool, elementary, middle, junior, or high school, or a residential child care facility.

c. State Licensure Timeline and Notification to Municipalities

The DOR was required to begin accepting licensure applications no later than 12/31/2024 and anticipates that it will begin issuing licenses in February or March of 2025 with operations

¹⁰ 4 CCR 755-1 § 6.17(F).

¹¹ 4 CCR 755-1 § 6.18.

¹² 1 CCR 213-1 § 2125(A)(2).

¹³ C.R.S. § 12-170-112; C.R.S. §§ 44-50-104(1) and (5).

¹⁴ C.R.S. § 44-50-104(5)(c)-(d).

¹⁵ C.R.S. § 44-50-104(5)(a); C.R.S. § 12-170-112; 4 CCR 755-1; 1 CCR 213-1.

beginning in April or May of 2025. The DOR intends to notify a municipality when it receives a licensure application in its jurisdiction in order to ensure that the license application conforms with locally enacted ordinances regarding natural medicine. Meanwhile, DORA's applications for facilitator licenses were available at the end of 2024.

d. What are the effects of decriminalization?

Natural medicine actions and conduct permitted pursuant to a license, registration, permit, or certificate, or those who allow property to be used for such items, are lawful and not an offense under state or local law. Also, as stated in more detail above, personal cultivation and possession for adults 21+ is now legal in Colorado, subject to a few restrictions. Criminal penalties for the unlawful operation of natural medicine businesses and natural medicine use or possession for those under the age of 21 are set forth in C.R.S. § 18-18-434. Local law enforcement has the authority to make arrests or issue citations within the parameters of this statute.

4. What can the City do?

As stated above, the City will need to decide whether or not it wants to implement time, place, and manner restrictions in the form of ordinances that do not conflict with state law or regulations in its Municipal Code.

I have provided a sample temporary moratorium as well as a sample local regulatory ordinance for Council's review to provide it with examples of how municipalities are regulating natural medicine and to assist it in determining whether or not it would like to adopt local regulations regarding natural medicine.