



March 23, 2022

The Honorable Delores Kelley
Chair, Senate Finance Committee
3 East, Miller Senate Office Building
Annapolis, MD 21401

The Maryland Wholesale Medical Cannabis Trade Association (CANMD) and the Maryland Medical Dispensary Association (MDMDA) appreciate the opportunity to comment on **House Bill 837 – Cannabis Reform**. We appreciate the sponsor’s hard work on this issue over the interim, particularly while serving as Chair of the Speaker’s House Cannabis Referendum and Legalization Workgroup.

CANMD and MDMDA support the issues addressed in the bill – criminal justice and expungement reform; public health concerns; assistance for small-, minority- and women-owned businesses and; conducting a disparity study to help further diversify the cannabis industry.

Social justice must be at the heart of any consideration of adopting an adult-use program in Maryland. It is indisputable that people of color have been disproportionately impacted by the enforcement of marijuana laws, in Maryland and nationally. The arrest and incarceration of people of color for minor marijuana possession crimes must stop – and prior wrongs must be remedied through the expungement process.

CANMD and MDMDA also support efforts to further diversify the cannabis industry. Our Associations supported House Bill 2 of 2018, which added 7 grower licenses and 13 processor licenses to the medical cannabis program to provide economic opportunities for people of color. While the license awards that resulted from that process have significantly improved the diversity of license-holders, more remains to be done as the State moves towards an adult-use market. The disparity study required by House Bill 837 will help inform the legislature’s decisions on remedial measures that should be taken before awarding adult-use licenses.

We also support the creation of the Cannabis Business Assistance Fund, which we believe should be used to assist the entrance of Maryland-owned small, minority-owned and women-owned businesses into the adult-use cannabis industry. As other States have recognized, these new businesses often need assistance navigating the license application process. More importantly, access to capital is likely the main barrier to small, minority-owned and women-owned businesses entering this or any other market. The Fund can help in both areas. We also believe that existing medical cannabis license holders can play a role in assisting new businesses

entering the adult-use market as part of a comprehensive social equity focus. This approach has been used in every recently adopting State that has transitioned from a medical-only market to an adult-use market; most of those states require medical licensees to pay a fee to a social equity fund such as the one created in House Bill 837 in order to enter the adult-use market. We pledge to work with the General Assembly and all interested parties to identify ways that current licensees can help new entrants start in, and thrive in, the new market.

Below we suggest some changes or clarifications that we believe strengthen House Bill 837. However, there is a step the General Assembly can take right away to prepare for adult use and assist new applicants and medical cannabis licensees - particularly the new House Bill 2 licensees that are coming online. Current federal tax law prohibits cannabis-related businesses from deducting basic business expenses, like wages and salaries, repair and maintenance, overhead, promotions and equipment costs (commonly referred to as the “280E problem”). Maryland can decouple from this provision and put licensees on equal footing with every other Maryland business. We recognize this is the subject of legislation in the Budget & Taxation Committee (Senate Bill 333); however, as the adult-use issue crosses committee jurisdictional lines, we wanted to raise the importance of this issue with the Committee.

Suggested changes

In addition to addressing the 280E penalty imposed on legal medical cannabis businesses, several other changes should be made to House Bill 837. On page 24, line 30, there may be a need to clarify that the prohibited activities do not apply to licensees and agents in the medical cannabis program. After “TITLE” insert “AND IN TITLE 13, SUBTITLE 33 OF THE HEALTH-GENERAL ARTICLE.”

Second, the Cannabis Public Health Advisory Council is charged with studying various issues. On page 37, lines 1-2, the Advisory Council is required to study and make recommendations regarding “advertising, labeling, product testing, and quality control requirements.” On page 37, lines 5-7, the Council also is instructed to examine best practices on limiting appeal and access to minors, including “advertising, potency, packaging, and labeling standards.” It is important to note the General Assembly passed legislation regulating advertising in the medical cannabis program (Chapter 456 of the Acts of 2019, codified as Section 33-1313.1 of the Health-General Article). In addition, the Commission has adopted regulations on labeling, packaging, and potency as well as product testing, quality control, and many other issues related to regulating a cannabis industry. The Advisory Council should be charged with considering the existing regulations, and the sufficiency of those regulations, rather than starting the process over again.

Further, we support conducting a disparity study to enable Maryland to further diversify the industry and understand that, if necessary, medical licensees should provide useful information to the certification agency. However, the information requested from licensees in Section 8 (pages 44-46) is extremely broad and, given the time frames established in that section, may never be effectively analyzed. If House Bill 837 passed today, over 150 licensees would have less than 4 months to detail every expenditure for the past 6 years. Even if providing the voluminous materials requested were feasible, the data would be unnecessary if the certification

agency determines by July 1, 2022 that the analysis from prior studies was sufficient to inform the new study. Even if the certification agency concludes those studies are insufficient, the agency would have only three and a half months to consider the data from licensees. When the 2018 disparity study was conducted, industry members cooperated with the certifying agency and expect to cooperate again now. However, this request is very broad and may not be the most efficient way to gather the necessary information.

Finally, we understand the General Assembly may decide to defer many implementation policy decisions until the 2023 Session, as contemplated in House Bill 837. If that is the decision, we believe that steps can be taken this interim to further refine and expedite several aspects of upcoming decisions. Some of these steps – the disparity study, the work of the Public Health Advisory Council, and various reporting requirements – are captured in House Bill 837. However, we believe that more can be done prior to the referendum and subsequent 2023 legislation.

For example, as noted above the Medical Cannabis Commission has adopted comprehensive regulations, operating procedures, and product testing standards that are likely needed for the regulation of an adult-use market. This interim, the Commission should be charged with reviewing those policies to determine what provisions are easily translatable to the regulation of an adult-use market. Similarly, the Commission should identify issues that are unique to regulating an adult-use market, and issues where current policies can be modified to meet the new regulatory needs.

With an adult-use market comes a taxation system that is not applicable to the medical market. The Commission should be directed to work with the Comptroller's Office to determine what is needed to implement a taxation process. The Alcohol and Tobacco Commission has testified that this process could last as long as 2 years; starting now will help the timely start of legal sales. Additionally, the Commission should be provided the resources needed to conduct the reviews and studies contained in House Bill 837, as well as the sales tax infrastructure work that needs to be done.

Thank you for the opportunity to comment on House Bill 837. As we testified to in the hearing on Senate Bill 833, our members want to be a resource to the General Assembly and to new social equity businesses that want to participate in an adult-use market. Our members are familiar with the challenges of working in this industry and have worked hard to be compliant with the extensive regulatory system. We look forward to working with the legislature and interested small-, women-, and minority-owned businesses to build a safe, well-regulated market that provides significant opportunities for new businesses that will seek licenses.

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