



February 16, 2021

The Honorable Shane Pendergrass
Chair, House Health and Government Operations Committee
Room 241 House Office Building
Annapolis, MD 21401-1991

RE: HB 453 – Health – Medical Cannabis Reauthorization Act – Letter of Information

Dear Chair Pendergrass:

The Maryland Medical Cannabis Commission (the Commission) is submitting this letter of information for House Bill 453 entitled “Health - Medical Cannabis Reauthorization Act.” HB 453 would repeal the statutory limit on the number of licenses the Maryland Medical Cannabis Commission (the Commission) may issue for medical cannabis growers and processors, which are currently capped at 22 and 28 licenses, respectively.

When HB 453 was considered during the 2020 legislative session as HB 1449, the bill’s sponsor stated that the intent was to improve diversity, inclusion, and competitiveness among medical cannabis licensing applicants and address concerns related to bias alleged by applicants during the 2019 application process. However, since the bill’s original introduction, the diversity of medical cannabis businesses in Maryland has dramatically improved. The Commission is proud to report that on October 1, 2020, we awarded Stage One preapproval for licensure to three grower and eight processor applicants, all of whom have a majority ownership interest held by minorities and women – nine of whom have majority African-American ownership. Subsequently, six out of 21 medical cannabis growers (28%) and 14 out of 26 (54%) processors are majority-owned by women and minority owners. Each of these figures represents a significant improvement over initial awards made in 2016 (where 20% of growers and processors were majority-owned by minority and women owners), and is significantly higher than the following uncapped states that track demographic data of cannabis owners for cultivation licenses: Illinois 0% majority minority-owned, Colorado 7%, Massachusetts 8%, and Michigan 10%. Furthermore, the integrity of these awards was upheld by two independent investigations funded by the Commission in which the investigators determined “Following a review of thousands of pages of documents and interviews of more than 50 applicants and individuals associated with the application process, we found no evidence of bias or undue influence in the 2019 medical cannabis license application review process.”

HB 453 also establishes an unrealistic timeline for receipt, evaluation, and award of licenses. The bill eliminates the competitive ranking of applicants and instead requires the Commission to grant or deny a grower or processor application for Stage One preapproval within 60 days on a first-come, first-served basis, based on criteria established by the Commission. This 60-day timeframe is unrealistic. Oklahoma is the only jurisdiction that has a medical cannabis-only market where the number of licenses is not restricted. The Oklahoma Medical Marijuana Authority currently requires at least 90 business days – or approximately four months – to process license applications

and renewals. Moreover, at the outset of the program, the overwhelming number of applications resulted in application turnaround times of upwards of 12 months. The Commission is unaware of any medical cannabis jurisdiction in the country that processes applications in less than 90 business days.

As a point of reference, Oklahoma has a population of approximately 3.9M, and established an uncapped medical cannabis program in 2019. During its first year of operation, Oklahoma approved more than 7,300 active licenses, which included the licensing of 4,287 growers and 1,173 processors. Currently in Oklahoma there are 6,564 growers and 1,262 processors serving 367,053 registered patients. While the Oklahoma application and annual license fees are significantly lower than in Maryland, it is unclear whether, and to what extent, a higher fee could potentially depress the number of applicants. Drawing upon Oklahoma’s experience, it is not unreasonable to assume that the Commission would receive several thousand applications for grower and processor licenses in a market where there are no longer any limits on the number of licenses that may be awarded.

Unlimited expansion in the number of medical cannabis businesses may adversely impact public health and safety. The medical cannabis program cannot be viewed as merely a commercial enterprise – but rather it is a health care program that fills a critical gap in the delivery system, and one in which patient safety and product quality are paramount. Current Commission regulations establish strict sanitation and quality control standards for cultivating and manufacturing medical cannabis. In order to enforce these regulatory requirements, the Commission employs a team of more than 20 enforcement and compliance inspectors. Even if the Commission doubled or tripled its staff, it would be insufficient to appropriately regulate medical cannabis businesses in an uncapped market. Currently, Commission staff conduct a minimum of four announced and unannounced inspections at each licensed facility. In contrast, regulators in the uncapped Oregon market inspect only a fraction of the more than 7,000 cannabis businesses each year. Subsequently, it is unsurprising that many of the “tainted” cannabis products linked to the 2019 surge in e-cigarette or vaping product use associated lung injuries were manufactured in Oregon and other western states that lack Maryland’s comprehensive regulatory framework that prioritizes product quality and patient safety.

Finally, in its letter of information for HB 1449 (2020) the Commission stated it would issue a Request for Proposals (RFP) to assess the current and future size of the medical cannabis market in order to better assist policymakers in making medical cannabis-related decisions. Pursuant to this RFP, the independent policy research firm Mathematica submitted a comprehensive market analysis in November 2020. The market study determined that absent the legalization of adult-use cannabis in Maryland, the medical cannabis program could experience an increase in patient numbers as high as 300,000. However, if and when adult-use is legalized, patient enrollment will likely decline to as little as 50,000 as patients shift to the adult-use market. The market study also found that current supply of medical cannabis was adequate to meet the demands of the existing patient population and that prices in Maryland were among the lowest in the nation among medical-only jurisdictions.

I hope this information is useful. If you would like to discuss this further, please contact me at (443) 915-5297 or at taylors.kasky@maryland.gov.

Sincerely,

Taylor Kasky, JD
Director of Policy and Government Affairs

cc: Members of the House Health and Government Operations Committee