



March 3, 2022

The Honorable Delores G. Kelley
Chair, Senate Finance Committee
3 East, Miller Senate Office Building
Annapolis, MD 21401-1991

**RE: Senate Bill 722 – Medical Cannabis – Licensees – Ownership Limitation Exemption –
Letter of Information**

Dear Chair Kelley and Committee Members:

The Maryland Medical Cannabis Commission (the Commission) is submitting this letter of information for Senate Bill (SB) 722 – Medical Cannabis – Licensees – Ownership Limitation Exemption.

SB 722 exempts certain ownership of publicly traded securities in a medical cannabis grower, processor, or dispensary from the statutory limit that an individual or entity may not hold an ownership interest in more than one (1) grower, one (1) processor, and four (4) dispensaries. Such an exemption, which only benefits part of the market, may adversely impact competition and small businesses in the State.

The statutory prohibition on an individual or entity owning or controlling more than one grower or processor, and more than four (4) dispensaries, was established in 2019 (Senate Bill 426/Chapter 501) expressly to limit the market share of large multistate and multinational corporations in the Maryland medical cannabis market. By granting these same corporations an exception to this limit, SB 722 will further exacerbate the existing market share and resource imbalance in the medical cannabis market between publicly traded companies and small Maryland businesses. Currently, nine (9) out of 18 grower licenses and 11 out of 18 processor licenses are owned or controlled by publicly traded companies. In turn, these publicly traded companies own or control nearly 40 out of 95 dispensary licenses. SB 722 will allow these businesses to add additional owners and investors, and raise additional capital, in ways that privately held companies (which are predominantly small, minority, and women-owned businesses) are prohibited.

Under current law, publicly traded cannabis companies have argued it is legal for an individual to hold a 4.9% ownership interest and serve on the Board of Directors of one company, and wholly own another cannabis license under a different entity name. SB 722 appears to codify such an approach. Specifically, businesses could hold a small interest that is on the edge of the ownership interest cap of having less than 5% of voting shares (e.g., 4.99%) in numerous medical cannabis licenses. The cannabis market is rapidly consolidating across the country, and SB 722 may increase the speed with which the market is consolidated in Maryland.

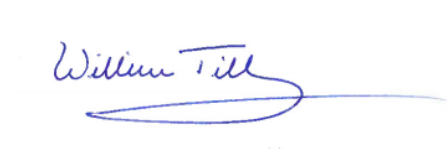
SB 722 will likely have an adverse financial impact on medical cannabis growers, processors, and dispensaries that are small businesses because the bill facilitates the ability of larger businesses with a certain ownership interest in publicly traded securities to expand their ownership interest throughout the medical cannabis industry, while not providing the same opportunity privately held businesses. This could exacerbate the resource disparity that exists between large, public traded licensees and small, privately held licensees.

Enforcement of the current statutory restrictions on ownership does create substantial administrative burdens for the Commission. The ownership of publicly traded companies is subject to change each day based on investment activity. It is not feasible or practicable for the Commission to monitor the ownership interests of publicly traded companies on a daily basis. Subsequently, the Commission's Bureau of Enforcement and Compliance focuses its ownership investigatory resources on the following: (1) the initial licensing application and review process, (2) upon receipt of a complaint, (3) when a medical cannabis licensee notifies the Commission of a proposed transfer of ownership, and (4) self-reported annual ownership disclosure forms.

The Commission lacks the resources and staffing to investigate or monitor ownership outside of the circumstances outlined above. Currently, the Commission contracts with a licensed, independent CPA firm to perform ownership audits of businesses prior to licensure and upon notice of a proposed transfer of ownership. These services were acquired at a cost of \$1.6 million over five years. In addition, the Commission allocates substantial staff and attorney time to investigating ownership interests held during its pre-licensing and transfer reviews. In 2021, the Commission investigated more than 50 proposed transfers of ownership – the majority of which involved publicly traded companies. For each proposed transfer involving a publicly traded company, the Commission reviews a shareholder list from the most recent day of trading as part of its investigation.

I hope this information is useful. If you would like to discuss this further, please contact me at (410) 487-8069 or william.tilburg@maryland.gov.

Sincerely,

A handwritten signature in blue ink that reads "William Tilburg". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

William Tilburg, JD, MPH
Executive Director
Maryland Medical Cannabis Commission

cc: Members of the Senate Finance Committee

This position does not necessarily reflect the position of the Maryland Department of Health or the Office of the Governor.