PHARMACANN

February 15, 2023

The Honorable Chairman and Committee Members
House Economic Matters Committee, State of Maryland
Room 231
House Office Building
Annapolis, MD 21401

Via Electronic Mail:
AA_ECM@mlis.state.md.us

Re: H.B. 556 Adult-Use Cannabis Implementation Bill in Maryland

Chairman Wilson and Committee Members,

PharmaCann Inc. (d/b/a ForwardGro Cultivator, ForwardGro Extracts, and Verilife Medical Cannabis Dispensaries) is a vertically integrated medical cannabis operator in the state of Maryland engaged in the cultivation, processing, and retail sale of medical cannabis for the benefit of registered patients within the state-licensed program.

At the outset, we would like to thank the Committee members for their participation in countless hours of research and deliberation in preparation for the launch of Maryland's adult-use operations. It is clear from the participating members' substantive agenda and debate, and subsequent first filing of companion House and Senate bills, that a great deal of relevant data and information were used to inform a thoughtful launch of the adult-use program in Maryland. The initial bill contains many provisions that will help ensure a smooth transition into adult-use sales on an expedited timeline.

Front of mind is the legislature's rightful goal of quickly opening a legal access point for Maryland adult-use consumers on or before July 1, 2023. This will avoid potential pitfalls experienced in other neighboring states that substantially lagged in establishing a legal access point for adult-use consumers, allowing for a proliferation of unregulated and unlicensed operators to fill the void. The proposed tax structure is also very favorable to achieving the state's policy goals with adult-use legalization, allowing regulated adult-use cannabis pricing to remain competitive with the illicit market. Finally, the proposed provisions to address currently unregulated hemp-derived THC by statutorily distinguishing non-intoxicating consumer hemp products from intoxicating THC, however derived, are a necessary and welcome policy to address the public health crisis with unregulated THC products marketed as legal hemp readily available throughout Maryland. A centralized cannabis regulator to help streamline the overall transition, harnessing the institutional knowledge of the prior medical program's leadership and staff, will further reduce friction in Maryland's trajectory to combine medical and adult-use operations for existing and new licensees.

H.B. 556 also contains thoughtful and intentional equity policies that PharmaCann wholly supports. The bill creates new licensing opportunities for social equity entrepreneurs, prioritizes sustained reinvestment of adult-use cannabis tax revenues for community programming, and incentivizes partnerships with existing medical operators and new qualifying social equity entrepreneurs with grant funding to assist startup costs and onboarding. With a demonstrated track record of supporting these efforts in other adult-use markets in which we operate, PharmaCann looks forward to contributing to these opportunities in Maryland. In addition, PharmaCann has worked in several of our state markets to harness community college and academic programming to bring workforce development and job training programs to the forefront of the adult-use transition, bringing economically, demographically, and geographically diverse participants into the tens of thousands of living-wage job opportunities an adult-use market creates. We look forward to assisting state regulators and stakeholders in carrying on these policy outcomes in Maryland into the future.

As the Committee undertakes its first committee hearing on the state's adult-use implementation bill, PharmaCann would like to provide a few areas of consideration for revision and amendment. Additionally, we write in support of the testimony and policy positions expressed today by the leadership of the Maryland Manufacturers Association CANMD.

- <u>The Proposed Two-Dispensary Ownership Cap Will Drive Many Medical Dispensaries Out of Business:</u> Although the state's ownership cap for medical dispensaries is currently set at four (4) per owner or entity, H.B. 556 proposes to place the limit on adult-use dispensaries at two (2) per owner or entity. *See* §36-401(E)(2)(I)(3). This will leave those medical dispensaries without the ability to convert to adult-use in a very difficult situation. The state's medical patient base has already stagnated, and will likely diminish further in an adult-use environment. With all newly licensed businesses available for both medical and adult-use patients, the medical only dispensaries that are unable to convert to adult-use due to ownership caps will not be economically viable, and will be forced to close their doors, lay off their employees, and turn away the patient base that these owners have invested their resources and built local community relationships to help serve.

  In recognition of the medical dispensary program that has served as the foundation for the Maryland cannabis industry, the state should raise the ownership cap to allow for up to four (4) dispensaries per owner or entity, and the conversion of all medical dispensaries to begin serving adult-use consumers.

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- The Proposed Canopy Caps and Cultivation Licensing Structure Create the Certainty for Oversupply, Market Disruption, and Failing Businesses: H.B. 556 proposes to grandfather all existing cultivators at their current flowering canopy, with the opportunity to expand up to 25%. In addition, a minimum of 45 standard licenses are proposed in the first year at 300,000 square feet of flowering canopy, with the potential to award up to 75 total standard licenses statewide. With all licenses together, the potential supply capacity of Maryland's adult-use market could reach nearly 20 million square feet of flowering canopy. *See* §36-401(A)-(D). As defined, "flowering" canopy would even exclude propagation and mother plant areas of cultivation facilities, which take up a significant portion of the overall canopy space. *See* §36-101(K).

  To avoid an oversupply, which has been experienced in several other states, the Committee should consider placing a reasonable canopy cap on all standard license types significantly below 300,000 square feet of "flowering" canopy. Placing a more reasonable canopy cap, such as 100,000 square feet of total canopy, will allow for measured competition that will keep prices stable and competitive, but not allow for oversupply to occur driving prices down to the point that businesses fail, jobs are lost, and the market becomes severely disrupted.

  As an example, Massachusetts has a similar population density and anticipated adult-use demand to Maryland, and is experiencing an oversupply that is driving businesses to slash production, close facilities, and make difficult job cuts. Massachusetts launched its adult-use program in 2018, and issued a total of 102 licenses across 11 "Tiers" of cultivation canopy limits. The maximum limit is 100,000 square feet. Statewide, the total canopy among these 102 licenses is approximately 3.2 million square feet, and the state is still facing oversupply issues with a population of approximately 6.9 million people. In December, the state's centralized cannabis regulator reported wholesale prices falling precipitously over the past year. As proposed in H.B. 556, Maryland's canopy limits and licensing structure would far outweigh the oversupply issues Massachusetts is currently facing, leading to market disruption and lack of economic viability for many cannabis businesses.

- Authority for Arbitrary Production, Processing, and Sales Limits: As proposed, H.B. 556 also includes the ability for the state's Division of Cannabis Regulation and Enforcement to set arbitrary production, processing, sales, and other limits for all cannabis business license types. *See* §36-401(B)(I)(3). The proposed provision places the centralized state regulator in a precarious position to set market controls, limit certain license types or individual businesses, and diminish market competition. In essence, the state regulator will have the authority to pick winners and losers in the market. As this overlaps with the lack of cultivation canopy limits set forth above, rather than place measured canopy limits, the bill appears to allow for unbridled growth and investment into production capacity in the supply market, but operators may then face limits on production down the line.

The Committee should reconsider measured supply limits on cultivation canopy, and remove the aforementioned provision putting the state regulator in the position of determining production, sales, and other limits on all cannabis businesses.

We are extremely grateful for the Committee's consideration of H.B. 556, and look forward to continuing our work together to ensure a safe and equitable transition into Maryland's adult-use marketplace.