



## Curio Wellness Written Comments HB556 Hearing – Friday, February 17, 2023

Founded and based in Maryland, [Curio Wellness](#) is a family-owned and operated cGMP certified cannabis company and trusted healthcare partner. We're dedicated to increasing the accessibility of high-quality cannabis to the growing population of citizens who seek safe, effective, and reliable products. Available in over 90 dispensaries across Maryland, our focus on **innovative and high-quality products and services** has made Curio the market leader in Maryland. Moreover, as an organization, Curio knows that a **diverse and inclusive workforce** creates an optimum workplace that attracts and retains talented employees and loyal customers. In fact, this commitment to diversity has been **present since inception** with Curio's inaugural leadership team comprising a multi-racial group of men and women. As the company has grown, so has its focus on a diverse team of workers and leaders. **Overall, 45% of the Curio Wellness workforce is female and 41% identifies as Black, Hispanic, Asian, or multi-racial. Among management, 48% are female and 21% identify as Black, Hispanic, or multi-racial.**

We appreciate the efforts of the Maryland House and Senate over the last several years and want to thank Chairs Wilson and Atterbeary for their leadership on this transformative legislation. Crafting legislation of this nature is undoubtedly challenging and we recognize the nuance and balance needed to address the plethora of industry-related stakeholders. While Curio agrees with many of the provisions set forth in HB556 and the program start date of July 1, 2023, below are some of our most pressing concerns. *Note that we have a list of additional changes (more technical in nature) and will work to provide that to all stakeholders in the coming days.*

### SUBSTANTIVE CONCERNS

#### I. DOSAGING

A dosage distinction between medical and adult use cannabis is absent from the bill text. It is commonplace for this potency delineation to appear in the law itself and we urge the General Assembly to provide clarity on this matter rather than solely deferring to the regulator. As a matter of public safety, a dosage requirement is necessary as we introduce cannabis to all of-age Marylanders. Certainly, there are doses and delivery methods for cannabis that should remain exclusive to medical patients and are not recommended for everyone. Additionally, we believe **high potency ingestible products should remain under the cGMP exemption, CFR 111, as they do today** in the medical program. This third-party accreditation **certifies a higher level of product quality, safety, and accountability**. As such, we would suggest the **unrestricted potency remain for medical patients** and that **adult-use** consumers be capped at **10mg per piece** with a 100mg max per package. In many ways, this is analogous to a prescription vs. over the counter (OTC) product – helping to **assure that new consumers are not over-served, and patient needs remain undisturbed**.

#### II. CANOPY & LICENSING

Maryland's adult use program will turn on at a time when there has never been more data available around best practices and economic realities of the cannabis industry. We have seen how states have effectively expanded their medical programs to include adult use and those who have blundered the opportunity. Over the past 10 months, we have borne witness to first major downturn of the cannabis industry – a sobering, and economically painful reality experienced across the country and here in Maryland. This historical data provides clear direction with regards to the delicate balance required between supply and demand to ensure a viable legal market. This economic reality is further bolstered by the punitive constraints put upon the cannabis industry due to our federal-state conflict

and the analysis by Ernst & Young. The attachment provided further explains the economic downturn and the impacts of over licensing and excessive canopy, two primary pieces that contribute to oversupply and a destabilized market.

**Therefore, we respectfully request that amendment to the legislation to address the excessively high canopy cap of 300,000 sq. ft. and consider a more stable max of anywhere from 100 – 150K sq ft.** With all existing and pre-approved cultivation licensees online, this suggested cap would provide the state with 2.2 to 3.3 million sq. ft. of canopy, which is more than enough to support the forthcoming demand of an adult use market in its earliest years -- and a total canopy commensurate with states like Massachusetts and Missouri that have a similar population to Maryland. Given the legislature's concern for preserved canopy, the lower cap not only helps to conserve future opportunity, but it also **puts new licensees in a better position to raise capital.**

As shared, the balance of the market depends not only on canopy, but overall number of licenses. The suggested endgame of **up to 75 standard cultivation licenses** is far too many even with a lower canopy cap. Again, **these inflated numbers may send negative signals to the marketplace on the viability of Maryland's future and may cause further retreat by investors.**

In hopes of ensuring an equitable and economically viable program, we recommend the following alterations:

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(C)(A)(i) A STANDARD LICENSE AUTHORIZES THE HOLDER OF THE LICENSE:

(I) FOR GROWERS, TO OPERATE MORE THAN 10,000 SQUARE FEET, BUT NOT MORE THAN **[300,000] 150,000** SQUARE FEET, OF INDOOR CANOPY, **GREENHOUSE CANOPY** OR ITS EQUIVALENT, AS CALCULATED BY THE DIVISION.

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(IV) FOR THE PURPOSE OF MEASURING CANOPY, 1 SQUARE FOOT OF INDOOR CANOPY **AND GREENHOUSE CANOPY** IS EQUAL TO 4 SQUARE FEET OF OUTDOOR **NO STRUCTURE** CANOPY.

### **III. FEES**

The proposed free structure for both conversion and renewal discount the impact 280e has on this industry-- particularly during a downturn in the overall market. Moreover, the **licenses the state awards** for each category type have the same value and therefore all licensees within a particular category should be treated similarly. The strength or weakness of any given operator is a byproduct of the vision, resolve, and execution of that team to actualize and efficiently run their business. **Therefore, we propose an equitable fee structure be bifurcated by license type: cultivation vs. processor vs. dispensary vs. laboratory, but not tiered based on the success of any given business on a gross-revenue basis. The Impact of federal constraints on this industry cannot be overstated and is an important consideration that the state must consider in the overall context of the cannabis markets.**

As an example, we believe the following fee structure is appropriate relative to license type and means for license conversion and renewal:

- Cultivators \$500,000
- Processors \$250,000
- Dispensaries \$100,000
- Laboratories \$100,000

We further **encourage the legislature to consider that these fees are directly applied to addressing the capital needs of the HB2 winners along with the FY23 appropriations.** The inability for HB2 licensees to operationalize in nearly three years highlights the capital access issues that plague

our industry. The State should seek to ensure the realization of their licenses awarded nearly three ago before further advancing licensure in state.

With regards to **renewal fees**, the same argument holds – **using gross revenue as the applied metric discounts the impacts of 280e as well as penalizes success, disincentivizing entrepreneurs** to succeed, due to the gouging measures proposed. Furthermore, with cannabis being moved **under the ATC**, it's **disingenuous to creates such an egregious on-going renewal fee structure when alcohol licensees pay moderate flat renewal fees**,

#### **IV. DISPENSARY OWNERSHIP INTEREST**

**We do not agree with the reduction of ownership interest relative to dispensaries from the current law of four to two for the following reasons:**

1. The majority of MSOs are already in the state and have met their max of four dispensaries so any future licenses would not be impacted by their consumption.
2. No different than the MSO's, Curio wants to preserve the right to businesses to expand business operations and partnership opportunities in the future.
3. If the state seeks to create generational wealth for new licensees than the creation of a retail (dispensary) chain is an optimal opportunity. Thus, reduction to no more than two dispensaries per operator removes a meaningful economic lever.
4. Considering the proposition of adding up to 200 more dispensaries, with the current law in play, if all new ownership consolidated, which is highly unlikely, the state would be left with 50 competitors. Any given community does not have this many competitors for traditional products – grocery, coffee, home goods, etc.so the cannabis Industry should not be an outlier.
5. The proposed reduction does not consider the consumer experience and the importance of consumer choice. The reason that brands and chains proliferate is because consumers are given high quality repeatable experiences. The strength of the Maryland marketplace will be an accessible distribution of retail outlets that provide consumers with consistent, high-quality experiences that align with their values and economic needs.

#### **V. ADVERTISING**

**The medical cannabis program has served the state for five years without incident or obscenity when it comes to advertising.** The Commission went through an arduous process in 2018 resulting in a final draft of advertising regulations that are fair and equitable. **The changes proposed in the bill not only compromise a licensee's ability to fairly market their business, educate and attract customers, they also regulate areas of media where constraints are not warranted.**

Taking the latter first, given the federal-state conflict **there a very limited number of outlets a cannabis company can engage in traditional advertising.** Television and radio are not viable outlets as networks and conglomerates will not allow cannabis advertising on their channels. Similarly, social media platforms have highly restrictive community guidelines that make it increasingly hard to feature a cannabis business or brand and direct advertising is not allowed – i.e., they will not allow you to buy ads on their sites, just like the TV and Radio networks.

**With regards to billboards and other forms of signage, we do not support the proposed changes.** This type of advertising has been **effectively used for five years within the confines of the laws to ensure the images portrayed are not indecent or obscene.** It also has **provided a countless number of vendors, printers, and sign companies a new and valuable revenue stream** -- an example of the offshoot economic impact our industry provides.



Nonetheless, the ability to advertise through any given outlet should be the right of the media company to decide. Therefore, the state should be focused on providing parameters that ensure factual and tasteful messaging that is neither attractive to minors nor usurps any established brand and a regulator who punishes those who do not comply.

With the above considered, we respectfully submit the bill reverts to current law as highlighted here:

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~~(3) ENGAGE IN ADVERTISING BY MEANS OF TELEVISION, RADIO, INTERNET, MOBILE APPLICATION, SOCIAL MEDIA, OR OTHER ELECTRONIC COMMUNICATION, OR PRINT PUBLICATION, UNLESS AT LEAST 75% OF THE AUDIENCE IS REASONABLY EXPECTED TO BE AT LEAST 21 YEARS OLD AS DETERMINED BY RELIABLE AND CURRENT AUDIENCE COMPOSITION DATA; OR~~

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~~(4) ENGAGE IN ADVERTISING BY MEANS OF PLACING AN ADVERTISEMENT ON THE SIDE OF A BUILDING OR ANOTHER PUBLICLY VISIBLE LOCATION OF ANY FORM, INCLUDING A SIGN, A POSTER, A PLACARD, A DEVICE, A GRAPHIC DISPLAY, AN OUTDOOR BILLBOARD, OR A FREESTANDING SIGNBOARD.~~

Consider replacing with current guidance on signage: DO NOT place ads within 500 feet of a: School, Licensed Child Care Facility (including registered home childcare centers), Substance Abuse or Treatment Facility, Library or Recreation Center, Public Park, or Playground (This does not apply to ads placed on property owned or leased by a grower, processor, or dispensary).

## **VI. TRANSFER OF OWNERSHIP**

The proposal of a five-year lock for any converted license should be rescinded. Current operators were incentivized to apply for licenses in 2015 under a specific set of parameters and subsequently raised capital and built businesses of this outline. Shortly into the legalized program, the state changed the game locking up licenses for a period of three years. It is an overreach to reinstate a new moratorium period with conversion to a comprehensive license. This constraint restricts licensees, existing or future, from making the most basic but important business decision they may face: when to buy or sell their business.

## **Conclusion**

Over the past five and half years, **Curio has done exactly what we said we would do in our application to obtain a medical cannabis grower license here in Maryland.** Not only have we remained steadfast in our promise to deliver high quality, safe and innovative medical cannabis to Maryland's certified patient population through constant research and development, but we have also maintained a constant drive to reinvest in our people, processes, and products. As Maryland adopts an adult use system, Curio Wellness would like to lend its experience as industry leader in the medical market to help develop a diverse, successful, and economically viable program.

For more information, please contact:

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