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SB 516 - Cannabis Reform

Before the Senate Finance Committee

POSITION: SUPPORT WITH AMENDMENTS

Dear Chair Griffith and Vice Chair Klausmeier:

My name is Tracey Lancaster Miller, and I am the Executive Vice President of Peake ReLeaf, a cannabis dispensary located in Rockville, Maryland. We are a single location, independent dispensary, owned and operated by local Marylanders. My two business partners and I are the founding members, and we were all born and raised in this state. When legislation changed to create the medical program, we were so excited for the chance to open a license in our home state, and we were fortunate enough to be one of the few Marylanders to win a license.

CLARIFICATION OF THE NATURE OF MICRO DISPENSARIES

We appreciate the thoughtful consideration in the creation of licenses with lower barriers to entry. This is important for providing avenues into the legal cannabis industry for those who have been disproportionately affected by the War on Drugs. We do have questions regarding the nature of these licenses, which are not addressed in the bill currently.

Clarification on the nature of micro dispensaries will determine the potential scope and size of these licenses. If micro dispensaries can:

1. have warehouse or commercial space with the ability to do wholesale purchases
2. can deliver to the entire state without geographic limitations
3. can utilize independent contractors instead of relying on employees only
4. have no limits on the amount of product that can be taken out in vehicles at a time
5. can sell at pop up events that are broken down at the end of the night
6. and do not need to follow the same regulatory requirements of standard dispensaries
7. or any combination of these factors

then these licenses can become very large. The number of these licenses awarded should be directly proportional to the scope and size potential of the license, and so we urge a reduction in the proposed number of these licenses, clarification to the intent of these licenses, and restrictions to ensure these licenses fulfill the intent.

DELIVERY

Current medical regulations allow dispensaries to deliver to a residential address. The logistics of creating and staffing a delivery service is a large undertaking which many dispensaries have chosen not to do. We urge the committee to allow converted dispensaries who do deliver to be able to continue to do so. The number of dispensaries that currently deliver is not large enough to have an effect on the success of new micro dispensaries.

OWNERSHIP CAPS FOR DISPENSARIES

Ownership caps may be one of the most important ways that the state can support small, independent licenses like Peake ReLeaf. As an independent dispensary, we feel the effects of consolidation of the market most strongly. We were very concerned about raising the ownership cap on dispensaries to 4 several years ago and would have preferred to see an ownership cap of 2 or 3 instead. No matter what the committee decides on this, we urge that the ownership cap for dispensaries not be raised above 4.

COUNTY-BASED LICENSING FOR DISPENSARIES

While we are not against moving to a county based licensing system, there are details about this system that are incredibly important to consider:

- Will all counties be awarded the same number of new dispensaries?
- Will there be consideration to the number of dispensaries already in a county?
- Will there be consideration to the population within a county for the number of new dispensaries?

Peake ReLeaf is located in district 17, a district with 3 dispensaries. In addition, across the state, districts 11, 16, 18, 21, 24, 26, 30, 42 and 46 all have 3 dispensaries instead of 2. This is because of the class of licenses known as grower-dispensaries, which are dispensaries awarded to growers in the first round of medical licensing and which 11 were awarded.

Growers-dispensaries were not subject to the same senatorial district limitations as standard dispensaries. Grower-dispensaries, simply by receiving a passing score on their application,

could choose any district to locate in without regard to the other 2 dispensaries that score high enough to be awarded a license in the district. This led to the above listed districts with 3 dispensaries.

We urge the committee to consider how allowing grower-dispensaries to locate anywhere continues to affect the market to this day. We urge amendments to the bill to correct the fact that grower-dispensaries have been able to play by different rules than standard dispensaries, being permitted to move to another district at any time upon approval by the MMCC. We also urge consideration of how to prevent bunching of dispensaries, as there are already two areas in the state with very high geographic concentration of dispensaries - Rockville/Bethesda/Gaithersburg area of Montgomery county and Towson/Timonium/Cockeysville area of Baltimore county. Finally, we urge the committee to ensure currently underserved areas of the state do actually see dispensaries open in those areas, and adopt amendments that will create a fair playing field for all dispensaries, including new licensees.

CONVERSION FEES FOR DISPENSARIES

The conversion fees proposed in this bill are incredibly high for an independent license such as Peake ReLeaf. No matter what the conversion fee is, we respectfully request that payment plans be an option. Without payment plans and reasonable fees, only highly capitalized licenses will be able to afford to transition to the adult use market, adding further barriers of entry for independent licensees. An 18 month payment plan has been proposed in the HB 556, and while we appreciate the payment plan, 18 months is not a long enough period to pay such a high conversion fee for small businesses like ours.

The reason why the proposed conversion fees for dispensaries are incredibly high is related to the tax liabilities of this license type. If a grower with a gross revenue of \$5 million is compared to a dispensary with a gross revenue of \$5 million, the economic landscape looks different for dispensaries. Despite a state level fix to 280e last year, many dispensaries are still struggling to pay years of back taxes. There is still no federal fix, which means that dispensaries still have a very high overhead to pay on taxes. No licensee can write off any expenses directly related to the sale of cannabis. So while it does affect all license types, it affects dispensaries the most because essentially all actions at a dispensary are related to the sale of cannabis. Also, the range of gross revenue for single conversion fee is a large range. The profitability of a dispensary doing \$5 or \$6 million in gross revenue is very different from a dispensary doing \$9

or \$10 million in gross revenue. We urge amendments that alter the range for the conversion fee. For example, breaking out the ranges into \$2.5 million segments instead of \$5 million.

In addition, most dispensaries in the state are either not profitable or are just barely profitable and are struggling to pay off years of accumulated debt. Also, the largest portion of dispensaries revenue goes straight toward the cost of goods sold, meaning the majority of the revenue in the state goes to wholesalers, particularly growers and wholesalers with both a grow and processing license. Dispensaries are not making large amounts of money, especially independent operators like Peake ReLeaf. The fees proposed in many cases will be more than what dispensaries like Peake ReLeaf have profited in total since they have been operational, further driving them into debt. Given the greater number of dispensary licenses, dispensaries are being asked to shoulder the larger portion of the social equity fund, even though we have higher fees, due to tax implications and economies of scale, and the majority of revenue goes to wholesalers.

MORATORIUM ON TRANSFER OF OWNERSHIP

A 5 year moratorium is a long time, and we would urge a reduction in the length of time that a license cannot sell or transfer ownership. A 3 year moratorium from the time a licensee becomes operational is in line with the medical program. We also urge converted licensees to be considered as fulfilling their moratorium already, as most have already been operating for 5+ years.

ADEQUATE SUPPLY FOR MEDICAL PATIENTS

Retaining access and supply for medical patients when adult use sales begins is so important. While we appreciate the consideration this bill has put toward this, we urge that dispensaries not be required to have operational hours to serve only medical patients. The reason for this is it is difficult to know what operational hours most medical patients would want or need in specific areas, and to have a store open but need to turn certain people away to come back at certain other times will provide a lot of opportunities for anger and distress from the community and for employees of dispensaries.

We urge the committee to consider instead express lines for medical patients, where they would be checked in ahead of adult use consumers and checked out ahead of adult use consumers. This can be done through language requiring express lanes or by requiring 1 medical line for

every 5 adult use lines. Many states have implemented these express lines with success, including Massachusetts.

In addition, the bill requires dispensaries to retain adequate supply for medical patients. While dispensaries determine patient or consumer access to products, grower and processor licenses are the ones that determine supply of a market. A dispensary can only retain an adequate supply first if there is adequate supply at reasonable pricing in the market generally, and second and more specifically that the supply is actually made available to and received within a reasonable time to a dispensary. The responsibility of medical patient supply should not be solely put on dispensaries - it should be shared among license types, as failure of one license type to produce and make available adequate supply at reasonable pricing sets all other licenses up for failure too.

PACKAGING AND REPACKAGING AT A DISPENSARY

There was an amendment introduced to HB 556 that would revoke the ability of dispensaries to package and repackage products. Medical regulations have allowed dispensaries to handle bulk flower since the inception of the program in this state. There are strict regulations in place to prevent and detect diversion at every type of facility. Detailed standard operating procedures have been approved for the handling of bulk flower at all types of facilities as well, including dispensaries. The mandatory state seed to sale tracking system ensures that any inventory discrepancies at any license are fully investigated. Many dispensaries including Peake ReLeaf were designed with specific operational zones to weigh and store bulk flower and incurred significant costs to build our facility adhering to strict regulations provided by the state. State regulation would require a licensee to shut down operations in order to begin construction in an attempt to repurpose the now unusable space.

Working with bulk flower provides dispensaries an additional opportunity for quality control and allows staff more transparency with patients as they are able to see the quality of the product. The prepackaged containers that flower is weighed into are not meant for long term storage. The quality of the product degrades as oxygen seeps into industry standard containers, so it is important that product does not sit in these containers for too long before being sold. Bulk flower also reduces the environmental impact of the cannabis industry by allowing patients to receive the quantity of flower in a single container.

Bulk flower at dispensaries is one of the main ways that dispensaries can offer more affordable flower to patients by offering discounts on higher amounts purchased like with any other commodity. Patients receive the benefit of cheaper flower because this allows growers to sell large quantities quickly, not only streamlining the process but by dispensaries taking on the additional costs of labor and packaging when caring for and distributing the flower. Without bulk and scaling discounts, the price of flower will increase dramatically.

Most importantly, revoking a dispensary's ability to handle bulk flower would result in a large loss of jobs in the industry. Peake ReLeaf has been a trusted source for patients to receive their flower because we provide additional care into the bulk flower we receive. It is by trimming and storing flower in sealed containers with moisture packs in a temperature and humidity controlled vault. Separating smaller flower and shake and making higher quality prerolls while saving the highest quality flower for patient purchase. It is only through the hard work from our dedicated staff at Peake ReLeaf and our access to bulk flower that we can offer the exceptional quality and value that we provide our patients. As an independent dispensary with no grow or processing licenses, it is one of the only ways we can set ourselves apart. Our staff are hardworking, trusted individuals whose livelihoods and benefits are directly linked to a dispensary's ability to weigh, store, make prerolls and audit flower for almost 5 years now. The staffing implications of selling only prepackaged flower would result in needing to lay off about one third of our workforce.

RECIPROCITY FOR VISITING MEDICAL PATIENTS

Visiting medical patients should be permitted to utilize the state's medical cannabis program while they are in the state or more importantly while receiving treatment. Patients travel from all over the country to receive treatment in Maryland's state of the art hospitals and medical systems, and medical patients from other states currently cannot obtain the medicine they rely on here. Adults may have access to cannabis products once adult use sales begin but only in potencies lower than they may need. Adult visiting patients also will have to pay taxes to receive the medicine that in state patients receive tax free. Most importantly of all, visiting pediatric patients and their caregivers receiving treatment will not have access to cannabis in any form without changes to the current medical program to allow reciprocity. Medical cannabis is a life changing and life saving medicine for people across the country. As a leader in healthcare nationwide, it is Maryland's responsibility to treat patients in the most effective way possible. For

those reasons, we recommend amending this bill to include reciprocity language from **HB 1172 / SB 671 - Medical Cannabis - Visiting Patients.**

Respectfully submitted,

Tracey Lancaster Miller
Executive Vice President
Peake ReLeaf