

5 February 2018

To: Mendocino County Board of Supervisors
FR: County Working Group on State Requirements
RE: Comments on State Regulations during comment period

Introduction

Mendocino County has the advantage of being a historical producer county in the state of California. Our county is home to a magnitude of multi-generational small cultivators, manufacturers, and other added-value cannabis industry participants. Our historical cannabis regulatory endeavors provide unique Insights into identifying challenges and offering solutions to the current regulatory transition of both Medical and Adult-use cannabis.

It is our intent to protect our long-time craft cultivators, manufacturers, transporters, retailers/ dispensaries and distributors for whom regulatory protections have been and are essential to guarantee their continued participation in the world's largest medical and adult-use cannabis market.

Overall Challenge:

Assuring the actions and benefits of economic development through regulation actually exist for even the smallest permit applicant.

Overall Solution:

The authority for this solution lies within California Business & Professions Code Section 26013 (c). Specifically, regulation shall "mandate only commercially feasible procedures, technology, or other requirements, and shall not unreasonably restrain or inhibit the development of alternative procedures or technology to achieve the same substantive requirements, nor shall such regulations make compliance so onerous that the operation under a cannabis license is not worthy of being carried out in practice by a reasonably prudent business person." Attention and consideration must be given to the regulatory difficulties facing the smallest operators in rural communities, to assure they might compete in the emerging legal market. This results in both local and statewide economic development benefits beginning with business retention and expansion.

Mendocino County Board of Supervisors, in collaboration with the various Mendocino County cannabis working groups, respectfully requests the following recommended solutions be implemented immediately to remedy the unintended challenges we have identified for our community in the existing State regulations. The format is as follows:

1. A bullet point outline of the lengthier CAC subcommittee recommendations.
2. Separate CAC subcommittee recommendations.

OUTLINE AND BULLET POINTS OF ATTACHED CAC SUBCOMMITTEE LETTERS

- Enforcement
 - Track and Trace - Timing and Logistics solutions
- Manufacturing
 - Solutions to ensure business retention and expansion resulting in economic development
- Microbusiness
 - Solutions to ensure economic solvency and growth
- Retailers/Dispensaries
 - Access Solutions to ensure economic solvency and growth
- Testing Labs
 - Transport and A & M solutions
- Cultivation
 - Cap, A & M and Nursery solutions to ensure business retention and economic development
- Distributors
 - Modifications and additions to ensure access to patients is not restricted and business retention and growth is allowed.
- Equity
 - Solutions that will address equity statewide, including grant programs
- Licensing Application
 - Wide scope of solutions to allow business retention for even the smallest California permittee resulting in economic development for rural communities
- Public Health and Youth
 - Solutions to educate youth

1. ENFORCEMENT

- A. **Livescan:** When will cultivators be able to obtain LiveScan fingerprint codes?

2. MANUFACTURING

- A. Allow Type 6 non-volatile manufacturing as an acceptable use with cultivation and retail, as well as within microbusiness licenses.
- B. Support small-scale, niche manufacturing with language explicit to cannabis and the coastal zone.

- C. CDPH proposed regulations in Section 40236, including requirements that relate to dust, odor, and vapors from a manufacturing facility and equipment use standpoint. Local agencies typically respond to complaints in these instances. We request clarification on how the State intends to respond to these complaints.
- D. CDPH proposed regulations in Section 40306, including regulations on a 1000 mg adult use/2000 mg medical use cap on tinctures and topicals. Topical and tincture manufacturers in Mendocino County feel these caps are arbitrary. The caps are proposed regardless of package size, meaning that no matter what size a product is packaged in, the cap is the same. If the topical comes in 1/2oz, 2oz, 4oz or 6oz container the cap is the same.
- E. Many patients are elderly folks or people who use topicals and tinctures for pain management to avoid or get off opiates and it is important for them to access a high potency, affordable medicine. Being able to package a high potency product in a 4 or 6oz container makes the medicine more accessible.
 - a. Solutions:
 - i. Remove the cap completely for topicals and tinctures.
 - ii. Create a per serving size standardization, not just an arbitrary limit.
- F. Manufacturers of Topicals and Tinctures ask for greater clarity on the testing requirements for their products. What is a batch size, how many samples per batch? There is a lot of confusion about the requirements; clarification from the state would be appropriate.

3. MICROBUSINESS

- A. **Distributor transport-only for “licensee to licensee” transport of cannabis goods** needs to be an allowed component of the microbusiness license so as to support cultivators in their need to transport product to processing facilities, manufacturing facilities, and events.
- B. **Modify Section 5500 Microbusiness (d):** Specifies that all cultivation, manufacturing, distribution, and retail activities performed by a licensee under a Type 12-microbusiness license **shall occur on the same licensed premises**. This requirement severely disadvantages rural cultivation communities which have significant zoning and land use obstacles to co-locating cultivation production with manufacturing, distribution and retail on a single premise. These rural cultivation communities are relying on vertical integration and direct consumer sales to support a viable local cannabis industry. We recommend allowing microbusinesses to conduct licensed activities on separate premises.
- C. **Requests for Clarification:**
 - 1. **§ 5025. Premises/ § 5500 Microbusiness conflict with each other.**

Section 5025 states the Bureau may allow a licensee to have the same licensed premises for two separate commercial cannabis licenses if all of the following criteria are met:

- a. The licensee holds both an A-license and an M-license for the identical type of commercial cannabis activity;
- b. The licensee who holds both licenses is identical in name, business formation, and ownership;
- c. The licensee only conducts one type of commercial cannabis activity on the premises;

§ 5500. Microbusiness states all cultivation, manufacturing, distribution, and retail activities performed by a licensee under a microbusiness license shall occur on the same licensed premises. Remove the restriction on multiple cannabis activities on same premises for Microbusinesses.

D. Microbusiness on Multiple Premises: Modify Section 5500 Microbusiness (d): Specifies that all cultivation, manufacturing, distribution, and retail activities performed by a licensee under a Type 12-microbusiness license shall occur on the same licensed premises. This requirement severely disadvantages rural cultivation communities which have significant zoning and land use obstacles to co-locating cultivation production with manufacturing, distribution and retail on a single premise. These rural cultivation communities are relying on vertical integration and direct consumer sales to support a viable local cannabis industry. It is imperative that state regulations be changed to allow the Microbusiness license to operate from multiple locations under the one license. There are many rural cultivation sites that are not zoned for the different microbusiness activities. The requirement that all 3 or more activities occur on the same premises has presented local zoning challenges that in many cases cannot be surmounted in rural areas.

E. § 5025. Premises/ § 5500 Microbusiness conflict with each other. Section 5025 states the Bureau may allow a licensee to have the same licensed premises for two separate commercial cannabis licenses if all of the following criteria are met:

- a. The licensee holds both an A-license and an M-license for the identical type of commercial cannabis activity;
- b. The licensee who holds both licenses is identical in name, business formation, and ownership;
- c. The licensee only conducts one type of commercial cannabis activity on the premises;

F. Regarding § 5500. Microbusiness states all cultivation, manufacturing, distribution, and retail activities performed by a licensee under a microbusiness license shall occur on the same licensed premises. Remove the restriction on multiple cannabis activities on same premises for Microbusinesses.

G. Distributor-Transport-Only License as One of 3 Microbusiness Activities: We are requesting that the Distributor-Transporter Only license qualify as one of the 3 mandatory activities. These licenses are sub-types of a Distribution license, so such an interpretation would comport with the current regulations.

H. Community Microbusiness: Allow a Microbusiness licensee the ability to partner with particular Cottage cultivating licensees to manufacture and/or distribute for them. Not to exceed 10 identified Cottage licensees.

I. Ancillary Activities: Microbusinesses may be allowed wherever cultivation or retail is allowed.

- J. **Modify 5412(b):** Permit retail and microbusinesses to package and/or label cannabis goods, providing they hold a Distribution and/or Processing License.

4. RETAILERS

A. **Remove Section 5045. Security Personnel in its entirety and modify surveillance equipment requirements.**

This regulation is an excessive, onerous and impractical requirement for small retail and other businesses that operate in small towns, rural and suburban areas, and medium-sized cities.

Cultivators, even under 10,000 sq. ft under the microbusiness requirement, would be hard-pressed to hire a security guard to be on-site 24/7 and actually effectively prevent criminal activity from occurring. See Attachment A for Authority for this adjustment.

B. **Cannabis Events**

The proposed regulations (BCC Proposed Text of Regulations, CCR, Title 16, Section 5602, paragraph (b)) for cannabis events, only allows for sales at a cannabis event to be performed by a retailer or microbusiness. Traditionally, cannabis events and tradeshow have been a mechanism for cannabis farmers, manufactures and nurseries in Mendocino County to showcase quality cannabis product and grow their business. Excluding farmers, manufactures and nurseries from selling their product directly to customers at a licensed cannabis event unfairly harms small businesses. For this reason, Mendocino County requests a provision be added to allow cannabis cultivators, manufacturers and nurseries to apply for a temporary retail seller's permit for cannabis events.

In addition, we recommend expanding the locations a cannabis event is allowed to operate in as authorized by Section 5601 of the BCC proposed regulation. As written, cannabis events would be allowed only at a county fair or district agricultural association. In keeping with the established land use authority of local jurisdictions, we request language be included to allow cannabis events at other venues approved by local jurisdictions.

5. TESTING LABORATORIES

- A. Cultivators and microbusiness licencees should be allowed to transport to labs and obtain their own testing of their own products. Without this stipulation, cultivators cannot confirm product quality and safety at events or at a microbusiness retail location.
- B. **Products should be designated A or M *after* testing, which should be *after* harvest, so that small farmers (under 10,000 sq. ft.) will know which crops are definitely in which category.** Permitting post-lab testing A or M categorization will allow small farmers to adjust to market demand in either the A or M category so long as the product meets the appropriate testing standard

for that category. Failure to allow this would likely result in huge product losses due to uncertain market conditions.

6. CULTIVATION

- A. Reinstate the One-Acre Cap in line with previous legislation and proposed regulations.** The One-Acre Cap was included in MCRSA; it specified a five-year limit in Proposition 64; and the Cap was further codified in the California Department of Food and Agriculture Program Environmental Impact Review. Reinstating the One-Acre Cap is consistent with the requirement that Cooperative Associations be capped at four acres. If the one-acre cap is not implemented for the first five years, the intended benefits of the cooperative associations in Business & Professions Code Section 26222 *et. seq.*, would become meaningless. Furthermore, the failure to institute a lower individual cumulative cap specifically undermines MAUCRSA's intent to allow small farmers five years in which to transition to the regulatory market without the necessity of transforming into (or being bought up by) large scale operations.
- B.** Ensure a way for applicants to provide their cannabis business history across different business names, entities and locations in order to qualify for priority standing even if there have been evolutions in the business.
- C.** Allow LiveScan from local licensing/permitting to suffice for state requirement.
- D.** Consider applications "complete" even if final documents from outside agencies is not yet in hand if applicant submitted all necessary paperwork to outside agencies and is merely awaiting processing. This specifically relates to extension of Temporary licenses only if application packet is deemed complete and currently those licenses will not be extended if the final documents are not in hand (though the state cannabis licensing departments will extend the time for submission before kicking out an applicant's package, at this point, they will not extend the Temporary license). [check this]
- E.** Allow changes in submissions without extensive fees, especially for farmers whose entire production could be wiped out in an instant and may need to alter location of garden to avoid contamination, or switch from medical to adult use, etc. As it stands now, fees are charged for every change and some changes require a completely new application, causing small operators unnecessary expenses they can ill afford.
- F.** Require one license fee for small operators both in terms of mix & match cultivation styles and for micro business.
- G. A and M Transition Period and Temporary License:** Temporary licenses will expire before the end of the Transition Period for some cultivators. This may hamstring them of the ability to engage in both marketplaces. It would make sense to extend the Temporary Licenses until June 30th to allow for maximizing the potential for transition businesses.
- H. A and M For Small Farms:** The State should consider allowing small farms (as defined by being less than 10,000 square feet) to make Adult-Use or Medical designations when products clear testing. Permitting post-lab testing A or M categorization will allow small farmers to adjust to market demand in either the A or M category so long as the product meets the appropriate testing standard for that category. Failure to allow this would likely result in huge product losses due to uncertain market conditions. Small farms need every bit of potential flexibility and cost-savings

possible to survive, and being able to operate one license that is capable of interacting with distribution to both marketplaces would be extremely helpful.

- a. The law allows a 6 month transition period where A and M can do business with one another but cultivators are disadvantaged because will have to submit complete applications before then if they want no gap in their Temporary licenses, since the annual application includes a site map requirement that forces the cultivator to designate A and M areas (and also requires two separate applications whereas now, under the Temporary License, they can just obtain one A or M for their entire site since A and M can do business with one another until June 30th). This effectively eliminates the benefit of the transition period for cultivators.

POSSIBLE SOLUTIONS:

- a) Extend all Temporary Cultivation Licenses in good standing until after 6/30/18
- b) Delay site plan requirement until after 6/30/18

I. Cannabis Events

The proposed regulations (BCC Proposed Text of Regulations, CCR, Title 16, Section 5602, paragraph (b)) for cannabis events, only allows for sales at a cannabis event to be performed by a retailer or microbusiness. Traditionally, cannabis events and tradeshow have been a mechanism for cannabis farmers, manufactures and nurseries in Mendocino County to showcase quality cannabis product and grow their business. Excluding farmers, manufactures and nurseries from selling their product directly to customers at a licensed cannabis event unfairly harms small businesses. For this reason, Mendocino County requests a provision be added to allow cannabis cultivators, manufacturers and nurseries to apply for a temporary retail seller's permit for cannabis events.

In addition, we recommend expanding the locations a cannabis event is allowed to operate in as authorized by Section 5601 of the BCC proposed regulation. As written, cannabis events would be allowed only at a county fair or district agricultural association. In keeping with the established land use authority of local jurisdictions, we request language be included to allow cannabis events at other venues approved by local jurisdictions.

- J. Distributor/Transport Only License (§ 5308):** Please clarify that the following onerous requirements do NOT apply to Distribution/Transporter licenses: B&P Sections 5043-3 5045 Section 5047, and Section 5309. At the very least, these sections should not apply to licensed self-distribution/transport activities.

- a. Security cameras are intentionally not required for cultivation under CDFA regulations. The rural and expansive nature of most cultivation sites not located in urban areas make the security camera requirement impractical and difficult to comply with. Specifically, many outdoor growers do not have the power source or internet access necessary to comply with the specific camera requirements in the current regulations listed for Distributors.
- b. Given that the Distributor-Transporter-Only licenses were intended to assist cultivators get their product off of their remote farms safely and without causing more impact to rural

roads by having full Distributors pick it up, it seems that a common-sense application of the requirements is necessary for this discrete subgroup. Oversight will still be accomplished: All product will be subject to Track and Trace and will be recorded in shipping manifests.

- c. We are requesting that the security camera requirement be interpreted as a requirement that is inapplicable to Distributor-Transport-Only licensees who are obtaining the license for their own cultivation sites. At the very least, please consider postponing the requirement that a site map with the location of security camera placement be submitted in order to obtain a Temporary license.

K. Processing & Packaging License: The draft regulations do not adequately address the need for tiered processing license types, which would facilitate economies of scale for smaller operators, some of whom may be located within a closer geographical vicinity and want to work together on processing.

- A. Tiered processing should also be available to Cooperative Associations.

- B. Allow Processing License as one of the three possibilities for microbusiness license.

L. Generators: Amend B&P Section 8306 (d) to read “All generators except those listed in B&P Section 8306 (c) (1) shall be equipped with non-resettable hour-meters.” Many existing sites have small backup generators that do not have an hour counter on them. As is, this section requires cultivators to purchase a new generator -- an unnecessary expense.

M. Canopy: Allow 2500 sq ft for Cottage Outdoor instead of only 25 plants. Define Canopy as the cumulative total square footage as measured by the dripline of each plant.

N. Vegetative Cultivation Waste: Specify that waste removed during vegetative cycle (big leaves and suckers) is not subject to weight requirements unless it is being used for juicing or manufacturing.

- a. Specify that such waste MAY be fed to noncommercial livestock onsite as part of diversified farming practices.

O. Weight: Clarify Definitions of Wet Weight vs Net Weight. CDFA needs to provide definitions of these two terms.

P. Differing Interpretations by State Water Board and California Department of Fish and Wildlife: The State Water Board and CDFW are in conflict over two things:

1. Whether certain water is jurisdictional or not (well, pond, ephemeral water course) and,
2. Forbearance/water storage. Additionally, some cultivators might have to go back and file water rights or SUIRs based on an interpretation of CDFW even if the Water Board previously told them (especially prior to October) that the issue was not jurisdictional. These conflicts cause further delays for cultivators to sign up and/or get determinations. Furthermore, a lot of people who were complying early-on, may have an entirely different situation under the NEW cannabis related water rules. SO, if someone was registered under the North Coast Regional Water Quality Control Board Order from 2015, and at the time they did that, they checked into the water rights issue, and at the time, they did not need an LSAA, they could be now in a completely different scenario based only on the rules changing.

- Q. Remove 4-Acre Cumulative Cap for Cooperative Members:** Modify B&P Section 26223 (d) to remove limits for association member cultivators under 10,000 sq. ft.
- R. Correct B&P Section 26223(c):** This section prohibits cooperative association members from having more than one Type 1 or Type 2 license -- not only are both needed in order to participate in both A and M markets, small operators will likely need to diversify by having multiple growing styles (i.e., low wattage mixed light and outdoor) as a necessary survival tactic in the unpredictable emerging market.
- S. PEIR:** Use of CDFA's statewide Programmatic Environmental Impact Report (PEIR) of November 2017 to set the standard for environmental impact of all cannabis cultivation in all zones where it is allowed.
- T. Modify 50 Lb Sample B&P Section 5707(c):** Reduce disproportionate cost impact on small batches. Due to storage concerns, the point of taxation, and the prohibition on the distributor's return of product to be resold, Distributors are likely to limit product submissions to small batches unless there is a contract in place for larger quantities. This results in disproportionately higher overall costs since each smaller batch incurs separate testing fees whereas large batch testing will be less expensive. Allow for group batching (i.e. "product harvested within 3 calendar days" can equal 1 batch). Allowing for different strains to be under one batch for all testing types but cannabinoids will combine costs and save needed resources for small operators.
- U. Track and Trace:** There are significant issues that remain to be resolved with the statewide Track and Trace system, particularly with respect to systems compatibility with local Track and Trace Systems operating on differing platforms, as is the case in Mendocino County. Mandatory implementation of dual systems prior to these compatibility issues being resolved is inequitable for affected businesses, particularly in producing regions comprised of legacy small and cottage operators, struggling to afford increasing compliance requirements.
- V. Nurseries:**
- a. Cottage Nursery License:** There are many nurseries that would qualify as a Cottage operation at under 2500 sq ft in size. Most nurseries are trying to be able to expand and will be limited in how many deliveries can be made while still providing clones for the medical retail market. A cottage nursery license level would allow a method to keep the genetic diversity and prevent dilution of the genetics available to the California Cannabis market. With some heavy marketed clones in demand, stress is starting to show up. This would also bring a lot of small nursery consultants and seed vendors into the legal rather than the black market
 - b. Designate A or M Plants at the Point of Transfer or Sale:** As above with limited space and large orders, it will be important to provide this at the point of transfer. If an order is canceled M, but clones are needed for an A order this will be much harder on the nursery as they have to continue to provide more and more care and space to a plant that has to stay in a specific category
 - c. A clear path for direct sales at cannabis events:** Direct sales are the opportunity for the Nursery to interact with purchasers without being on a large scale. Nurseries would be able to make direct recommendations as well as sell seeds. Seed sales become very important to help cover cost over the slow months of December through February

- d. **Seeds and Track and Trace:** Seeds should be allowed to be entered into the T&T system for sale by weight or each.
- e. **Nurseries and Flowering Plants:** Nurseries should have some ability to flower plants for marketing purposes. This would allow the ability to photograph flowers. This would also allow the nurseries to present aroma and looks of specific Phenotypes. This product would not be for sale

7. DISTRIBUTORS

A. Distributor/Transport Only License (§ 5308): Clarify that the following onerous requirements do NOT apply to Distribution/Transporter licenses: B&P Sections 5043-3, 5045 Section 5047, and Section 5309. At the very least, these sections should not apply to licensed self-distribution/transport activities.

B. Need for License Type 10-D: Direct Delivery of Medical Cannabis Infused Products to Patients (A detailed summary of regulatory parameters and restrictions can be found in Attachment B)

Rationale:

- Access to patient markets and the service of medical patient needs in rural areas -- **and even urban and suburban areas** -- will be greatly restricted without a delivery license not tethered to retail outlets.
- Third party courier/delivery services will become illegal and no longer available to retailers to serve people in these “access deserts”.
- A “delivery only” licensee can move medicinal cannabis products directly to patients after digital platform-based purchases have occurred between patient and retailer.
- Purchase of medicinal cannabis products can be restricted to infused products or all “M” products meeting state packaging regulations.
- Patient/caregiver medical recommendation verification will occur prior to delivery using approved digital platforms.
- Delivery of products will occur after distributor delivery to retailers, and after track and trace inventory confirmation.

C. Modify 5412(b): Permit retail and microbusinesses to package and/or label cannabis goods, providing they hold a Distribution and/or Processing License.

D. Modify 50 Lb Sample B&P Section 5707(c): Reduce disproportionate cost impact on small batches. Due to storage concerns, the point of taxation, and the prohibition on the distributor’s return of product to be resold, distributors will limit product submissions to small batches unless there is a contract in place for larger quantities. This results in disproportionately higher overall costs since

each smaller batch incurs separate testing fees whereas large batch testing will be less expensive, impacting smaller operators severely.

8. EQUITY

- A. Justice and equity need to shape state policy regarding the victims of prohibition era persecution in rural as well as urban areas. A new trend toward expunging “marijuana-related convictions” is only the first step in welcoming our neighbors and friends back into the now legal industry. Rural cultivators from 1980s onward were subjected to military style raids, constant low-flying overflights, and over-zealous law enforcement agents who would intentionally trash homes, hold families at gunpoint and spray paint obscenities on walls. The convictions that people suffered had lasting impact on their ability to obtain employment, participate in civil and political processes, straddled them with huge fines and costs that wiped them out. The PTSD of many who were raided in such extreme and violent ways is real and lasting. State regulators must not only welcome people into the commercial cannabis sector but erase their “marijuana only” convictions.

DATELINE SAN FRANCISCO, 2/1/18. Prosecutors in San Francisco will throw out thousands of marijuana-related convictions of residents dating back to 1975. San Francisco District Attorney George Gascón said Wednesday that his office will dismiss and seal 3,038 misdemeanor convictions dating back before the state's legalization of marijuana went into effect, with no action necessary from those who were convicted. Prosecutors will also review up to 4,940 felony convictions and consider reducing them to misdemeanors. -- *NPR, Richard Gonzalez, February 1, 2018*

- B. Equity can be achieved for California’s disadvantaged legacy operators struggling to enter the regulatory framework through the establishment of state funded public grant programs to support navigating compliance and business retention and growth.

9. LICENSING APPLICATION

- A. Allow SMALL licensees to permanently conduct business with both Adult Use and Medical licensees irrespective of which type (A or M) license is held,** beyond the stated transition period defined in B&P Section 8214. This will allow for long-term business planning and increase much-needed financial stability for small entrepreneurs during this volatile period.
- a. One license fee for small operators both in terms of mix & match cultivation styles and for micro business.
- B. Fair protection of small businesses in the cannabis industry.** For small businesses applying for both A and M licenses, including the microbusiness license, and conducting the same commercial cannabis activity at the same property (not premises), regulations should require single costs for application fees, license fees, liability insurance and bond requirements. Small cultivators and entrepreneurs shall be defined, for this purpose, as operators of less than 10,000 sq. ft. of cultivation or less than \$500,000 gross annual sales for non-cultivation licensees.

C. Proof of Business History: Ensure a way for applicants to provide their cannabis business history across different business names, entities and locations in order to qualify for priority standing even if there have been evolutions in the business.

D. Livescan: Allow LiveScan from local licensing/permitting to suffice.

E. Specific consolidation of costs:

1. **Fees:** Reduce application and licensing fees for small operators seeking to hold both an A and M license as they present a double regulatory financial burden.
2. **Bond Requirements:** Smaller businesses should not have the same Bond or insurance requirements as larger businesses. Institute a tiered structure for these costs. Smaller businesses with gross receipts of less than \$500,000 should be required to meet a bond obligation of \$2,000 while larger entities provide a \$5,000 bond.
3. **Insurance Requirements.** Change current language requirements that distributors (and other sectors?) must carry and maintain commercial general liability insurance in the aggregate in an amount no less than \$2,000,000 and in an amount no less than \$1,000,000 for each loss. Instead, small operators should be required to carry and maintain commercial general liability insurance in the aggregate in an amount no less than \$500,000 and in an amount no less than \$250,000 for each loss.
4. **Distributor/Transporter Only licensees** should not have to carry the same level of insurance as “full service” distributors, especially for self-distribution transporting.

F. Exempt Small Operators from Some Security Requirements: Remove Section 5045 Mandating Security Personnel. Small businesses in rural areas have limited incomes and cannot afford to hire or contract security staff. Please reference Attachment A regarding detailed rationale for this request and further modifications to security requirements.

G. Banking for Cooperatives: Remove requirement that Cannabis Cooperative Associations include “Cannabis” in their names. This provision effectively makes these Associations unable to obtain bank accounts.

H. Coastal Commission: State agencies need to work with the Coastal Commission to help local jurisdictions establish coastal zone ordinance amendments.

I. Further Amendments to implement the intent of B&P Section 26013 (c) and to Keep Small Businesses in Operation:

1. **Distributor/Transport Only License (§ 5308):** Clarify that the following onerous requirements do NOT apply to Distribution/Transporter licenses: B&P Sections 5043 -5045 Section 5047, and Section 5309. At the very least, these sections should not apply to licensed self-distribution/transport activities.
2. **Processing & Packaging License:**

- a. Tiered Processing license to facilitate economy of scale for smaller operators, some of whom may be located within a closer geographical vicinity and want to work together on processing.
- b. Tiered processing should also be available to Cooperative Associations.
- c. Allow Processing License as one of the three possibilities for microbusiness License.

J. Fair Protection of Small Businesses in the Cannabis Industry. For small businesses applying for both A and M licenses, including the microbusiness license, and conducting the same commercial cannabis activity at the same property (not premises), regulations should require single costs for application fees, license fees, liability insurance and bond requirements. Small cultivators and entrepreneurs shall be defined, for this purpose, as operators of less than 10,000 sq. ft. of cultivation or less than \$500,000 gross annual sales for non-cultivation licenses.

K. Specific Consolidation of Costs Suggested for Small Businesses:

1. Fees: Reduce application and licensing fees for small operators seeking to hold both an A and M license as they present a double regulatory financial burden.
2. Bond Requirements: Smaller businesses should not have the same Bond or insurance requirements as larger businesses.
3. Institute a tiered structure for these costs. Smaller businesses with gross receipts of less than \$500,000 should be required to meet a bond obligation of \$2,000 while larger entities provide a \$5,000 bond.
4. Insurance Requirements. Change current language requirements that distributors (and other sectors?) must carry and maintain commercial general liability insurance in the aggregate in an amount no less than \$2,000,000 and in an amount no less than \$1,000,000 for each loss. Instead, small operators should be required to carry and maintain commercial general liability insurance in the aggregate in an amount no less than \$500,000 and in an amount no less than \$250,000 for each loss.
5. Distributor/Transporter Only licensees should not have to carry the same level of insurance as “full service” distributors, especially for self-distribution transporting.

L. Extension of Temporary Licenses: 120-day Temp license won't be extended unless a complete application has been turned in. An application is not complete if all water & environmental documents are not in hand and submitted. There are significant concerns that the State Water Board and/or California Department of Fish and Wildlife will not be able to keep up with the number of permit requests. Extend all Temporary Licenses through 6/30/18 if all materials have been submitted to appropriate agencies.

M. Complete Applications: Consider applications “complete” even if final documents from outside agencies is not yet in hand if applicant submitted all necessary paperwork to outside agencies and is merely awaiting processing. This specifically relates to extension of Temporary licenses only if application packet is deemed complete and currently those licenses will not be extended if the final documents are not in hand (though the state cannabis licensing departments

will extend the time for submission before kicking out an applicant's package, at this point, they will not extend the Temporary license).

- N. Change Submissions:** Allow change submissions without extensive fees (as is the case now). Especially for farmers, whose entire production could be wiped out in an instant and may need to alter location of garden to avoid contamination, or switch from medical to adult use, etc. As it stands now, fees are charged for every change and some changes require a completely new application, unnecessarily causing small operators expenses they can ill afford.
- O. Association Licenses:** Correct B&P Section 26223(c) which prohibits association members from having more than one Type 1 or Type 2 license -- not only are both needed in order to participate in both A and M markets, small operators will likely need to diversify by having multiple growing styles (i.e., low wattage mixed light and outdoor) as a necessary survival tactic in the unpredictable emerging market.

10. PUBLIC HEALTH AND YOUTH SUBCOMMITTEE

- A. Allocate funds for public education about the medical use of cannabis.

ATTACHMENT A FOR RETAIL

Remove Section 5045. Security Personnel in its entirety and modify surveillance equipment requirements.

This regulation is an excessive, onerous and impractical requirement for small retail and other businesses that operate in small towns, rural and suburban areas, and medium-sized cities. Cultivators, even under 10,000 sq. ft under the microbusiness requirement, would be hard-pressed to hire a security guard to be on-site 24/7 and actually effectively prevent criminal activity from occurring. This is just not practical.

For our retail dispensaries in Mendocino County, there has never been a complaint of any criminal activity of any sort by law enforcement. Nor have there been any civil complaints of record, as noted by our Board of Supervisors. We are a quiet, low-population, rural county. It would be hardly cost-effective for us to be required to hire or contract with security personnel, nor would it be effective in preventing something that, in fact, has not happened.

Authority: Section 5045 mandating Security Personnel cites Business & Professional Code, Section [26070 as authority](#). However, there is no requirement in 26070 that supports this regulation. Here is the language in 26070 regarding security measures for microbusinesses:

- (j) Licensed retailers and microbusinesses, and licensed nonprofits under Section 26070.5 (future nonprofit license), shall implement security measures reasonably designed to prevent unauthorized entrance into areas containing cannabis or cannabis products and theft of cannabis or cannabis products from the premises. These security measures shall include, but not be limited to, all of the following:
 - (1) Prohibiting individuals from remaining on the licensee's premises if they are not engaging in activity expressly related to the operations of the retailer.

- (2) Establishing limited access areas accessible only to authorized personnel.
- (3) Other than limited amounts of cannabis used for display purposes, samples, or immediate sale, storing all finished cannabis and cannabis products in a secured and locked room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss.

Likewise, Section 5045 mandating Security Personnel cites B & P Section 26013 as its authority. BPC 26013 in fact stipulates *against* requiring such an expensive and onerous regulation, as was cited at the beginning of this document.

Modify Section 5044. Video Surveillance System

Section 5044 should be modified because it is more reasonable that security systems match the types of activities and physical infrastructure to be monitored. A small contiguous building offering retail sales or manufacturing requires far fewer cameras and has fewer exits and entrances than does a cultivation site. Neither BPC 26070 or 26013 supports these stringent and onerous requirements.

The following requirements under Section 5044 should be deleted or adjusted as being excessively expensive and not effective, especially for cultivation sites:

(b) The video surveillance system shall be capable of supporting remote access by the licensee.

Comment: Some remote home businesses do not have electricity or a reliable phone (let alone internet access) this provision should be waived if site specific conditions/common sense dictates it.

(e) (1) Areas where cannabis or cannabis products are weighed, packed, stored, quarantined, loaded and/or unloaded for transportation, prepared, or moved within the premises;

Comment: For home-based microbusinesses, permanent cameras on 24/7 are an invasion of privacy. Other designated areas in this section are more appropriate.

(e)(4) Areas storing a surveillance-system storage device with at least one camera recording the access points to the secured surveillance recording area;

Comment: This would be unnecessary for home-based microbusiness.

(e)(5) Entrances and exits to the premises, which shall be recorded from both indoor and outdoor vantage points.

(f) All recording and monitoring equipment shall be located in secure rooms or areas of the premises in an access-controlled environment.

Comment: Site specific/Common sense exceptions shall be made for home-based microbusinesses.

ATTACHMENT B FOR DISTRIBUTION

Parameters and restrictions for License Type 10-D: Direct Delivery of Medical Cannabis Infused Products to Patients

Problem: With the limitation of delivery licenses to retail storefront and non-storefront outlets, the state restricts access for 215 validated patients located outside the range of storefront and non-storefront medical retail outlets.

Solution: The Bureau of Cannabis Control will issue a special license (Type 10-D?) to applicants who will deliver only infused medical cannabis products (not flower) to patients/caregivers with verified, legal medical recommendations, subject to the requirements imposed by existing regulations. California Regulatory Notice Register on April 28, 2017, Office of Administrative Law Notice File Number Z-2017-0418-20

Chapter 3: Transporters

- The proposed regulations would prevent a transport licensee from holding title to the medical cannabis goods, require that medical cannabis goods are not visible or identifiable during transport, permit transport by roadway only, require medical cannabis goods to be in a secure locked box within the interior of the vehicle, require all transport vehicles to be equipped with alarm systems, and require the vehicle to be attended at all times in residential neighborhoods. The regulations would also require that nonmedical cannabis goods not be transported with medical cannabis goods, however, would allow transporters to transport medical cannabis goods from multiple licensees in the same shipment. Transporters would be allowed to store medical cannabis goods for a short period of time, 72 hours, if they are stored in compliance with storage requirements that are consistent for other licensees.
- The proposed regulations would also set the minimum age for drivers and passengers of licensed transport vehicles at 21 years of age. The proposed regulations would also require thorough and proper record keeping, including requiring a licensee to keep and maintain a load-specific shipping manifest and business records, and maintain full integration with the track and trace database. The proposed regulations would enumerate the information and the qualifying events that must be entered into the track and trace system.

Rationale

- As production of medicinal cannabis expands to meet market demand, patient access to much-needed medicinal products is reduced and stakeholder access to these patient markets is also diminished by an inability to reach patients from their retail storefronts or warehouse outlets. All licensees deserve access to markets and by creating a special “deliveries only” license, technology-based retailers will be able to continue to serve out-of-range patients and caregivers.
- Factors behind the expanded “access deserts” occurring after the proposed state license structure goes into effect include
 - closure of all mountain passes south of Tahoe during winter;
 - only two dispensaries operate east of the Sierras, in Ridgecrest and Mammoth, approximately 300 miles from each other;
 - existing third party courier services will not carry cannabis products as new regulations prohibit combining them with other goods.

Suggested Regulations for Delivery of Medical Cannabis to Legal 215 Patients

The Bureau of Cannabis Control will issue a special license type 10-D license to applicants who will serve as a courier service to exclusively deliver medical cannabis infused products to a patient or caregiver who has a verified, legal medical recommendation subject to the following rules:

- Deliveries will be made as a result of a purchase through a technology-based platform, as is defined in the state licensing regulations, and from an “M” licensed commercial retailer, including both storefront and non-storefront Type 10 licensees.
- Deliveries will be made solely to the patient or patient’s caregiver after purchase is made from the retailer.
- Deliveries will be made to a residence, defined as a dwelling such as a house or apartment but not to include a dormitory, hotel, motel, bed and breakfast or similar commercial business.
- Cannabis products to be delivered will not include flower, wax, shatter, hash, rosin, or any other commonly considered “adult use” cannabis products.
Direct-to-patient/caregiver deliveries will include only those cannabis products designated “M” by the state system and defined within the category of “infused products”.
- All medicinal cannabis products must be packaged according to the state guidelines issued to all retailers.
- The originating retail licensee shall comply with the specific rules associated with the final weighing and packaging of medical cannabis before such items are prepared for transport pursuant to this rule.
- Type 10-D licensees will not handle or carry cash and all sales for medical cannabis products will be completed by the patient/caregiver and retail licensee prior to delivery.
- Delivery times for direct-to-patient/caregiver medical cannabis deliveries will be restricted to between the hours of 8:00 am and 9:00 pm. To accommodate the impact inclement weather can have on driving conditions and other unpredictable events that could delay a delivery, a verifiable “statement of delay” may be submitted along with the proof of delivery manifest.
- The individual making the delivery must check the identification of the individual to whom delivery is being made in order to determine that it is the same individual who submitted the order, and must require the individual to sign a document indicating that the items were received;
- Delivery licensees will carry a detailed manifest with the following:
 - description of the exact medicinal products to be delivered, along with already issued track and trace unique identifiers for each product;
 - Delivery vehicle make and model and license plate number;
 - Name, state-issued license number, and signature of the licensee accompanying the transport;

- the name of the patient/caregiver who placed and paid for the order;
 - a copy of the patient/caregiver legal medical recommendation;
 - the address of the residence to which delivery is being made;
 - Time/date stamp of delivery required on manifest.
- Delivery licensees will abide by the following transport rules:
 - Medicinal cannabis products will be kept in a lock-box securely affixed inside the delivery motor vehicle;
 - Transport of medical cannabis shall be conducted in a motor vehicle that is properly registered in the state of California pursuant to motor vehicle laws, but need not be registered in the name of the licensee;
 - Transport of medical cannabis shall be accompanied by a copy of the originating retail licensee's business license, the retail licensee's valid delivery license, the driver's valid motor vehicle operator's license, and all required vehicle registration information.