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Mendocino County Board of Supervisors  
501 Low Gap Road  
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May 22, 2017

Re: 5/23/17 Agenda Item 5B

Dear Honorable Supervisors and dedicated Staff:

In addition to supporting Casey O'Neill's letter, I have the following comments:

Please Highlight Where The County Should Simply Mirror State Laws & Where It Prefers To Differ From State Law: After reading through the Staff Memorandum and the accompanying Attachments A & B, as well as having read the various proposed State regulations that have recently been released, it struck me that **it would be helpful to the Board and the public if Staff were to specifically identify the ways in which Staff is proposing that the County mirror the proposed State regulations and the manner in which it is suggested that the County deviate from those proposed regulations.** Obviously, when it comes to the land use issues, particularly as to how the proposed uses might be allowable (conditioned upon various levels of review) in some zoning areas and not others, there would be no need for such comparison. However, in many other respects, I believe it would be very helpful and could help narrow the issues significantly.

The proposed State regulations came in three sets: CDFA released proposed regulations for Cultivation; BMC released proposed regulations for Distributors Transporters, and Dispensaries; and CDPH released proposed regulations for Manufacturing. There is a strong likelihood that these proposed regulations will be modified after public comment and it is also likely that the State Regulators will use their EMERGENCY powers to issue temporary regulations after synthesizing AUMA and the MCRSA. As a result, my suggestion as to narrow the issues by deciding in what ways the local ordinances should simply require compliance with the State regulations (as opposed to create additional or different rules), was meant as a general organizational suggestion and did not mean to imply that all of the specifics can be known at this time.

So, for example, if Mendocino County wishes to allow cottage level home manufacturers with a certain level of review from the Planning and Building Services Department, even though it is unsure whether such applicants would eventually meet the State requirements, it might pass such regulations and then simply require, as it is proposed with other provisions, that any local license is provisional until a State license is granted and may be cancelled or withdrawn if the applicant or local licensee does not obtain a State license within a certain period of time. **In this instance, there is a good reason to deviate from the State in creating an additional license type of a cottage or micro manufacturer:** we have many small farmers who rely on utilizing the trimmed or fallen remnants of the cannabis they grow to create another product. **If we simply require that they adhere to State**



**requirements, or, as Casey O'Neill has suggested, we pave the way for an additionally needed permit type at the State level, it will help our small farmers stay viable.**

Incidentally, **"Good Standing"** at the local level could and should be granted by a permit "or other approval" at the local level. If a local government verifies that the activity has existed and the actor has not been in violation of any health or safety code, there is no reason why the local government cannot issue an "other" approval that indicates that by virtue of existing and not violating any health or safety issue, the operator was in good standing.

**In another instance where it would be helpful to know if it was intended to deviate from the proposed State regulations or not is with the issue of "applicant" or "owner."** Under the proposed state regulations there is NO definition of "applicant" but instead, the term "owner" is defined mainly for purposes of determining what level of information is required to be provided about various types of "owners" in a proposed activity/license type. So for example, The proposed State regulations determine that a private person who owns less than 20% ownership in a private company is not considered an "owner" for purposes of gathering detailed information on that person (presumably to make sure that they do not hold conflicting or too many licenses and that they have background checks). **The State proposed regulations also distinguish between different levels of ownership for "owners" who are companies both publically traded and privately held (which have different criteria to be considered an "owner" in the cannabis business being licensed. However, under the proposed County rules, it seems that Staff has defined "applicant" but not "owner" of the proposed cannabis business and in doing so made the definition much broader than the State definition for "owner."** If the idea is to define "applicant" to restrict eligibility in a manner different from the State proposed regulations, it should be enunciated so that idea could be evaluated as to purpose and need. Additionally, defining this term more broadly than the State is proposing affects the level of detailed information needed. The State, after receiving input from various stakeholders, decided that it would unnecessarily restrict investment if it were to include the following categories (besides just security interest or lien holders): (1) less than 20% owners (for private individual owners) and less than 5% for publically traded companies, (2) persons other than the CEO and members of the Board of a company that owns more than 20% of the cannabis business, (3) persons that do not participate in the direction, control or management of the cannabis business. In fact, it specifically EXCLUDES those groups and also excludes certain types of community property interests if they are not participating in the direction and control of the cannabis business. Again, these inclusions and exclusions pertain to the level of information that is required presumably so that the State can screen against other license criteria or restrictions. It would be helpful to understand the reason behind making the definition at the local level so broad. The County may not want to expend the resources to go through the level of detailed information that the State will be requiring (since the State will already be doing that), **but it should still have a definition that is consistent with the State unless there is a specific reason not to.**



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Please Be Sure To Include A Provision That Gives Sufficient Grace Period For Slow State Processing Of Licenses & That Considers Those That May Not Qualify For Priority Standing At The State Level: Many State agencies are currently months behind in assisting cannabis businesses. It will important to build in two safety nets for County permitted cannabis businesses that are waiting for State agencies to process their applications AS WELL AS take into account that there may be locally permitted businesses that are not eligible for priority standing at the State level. **Please ensure there is sufficient protection for those businesses to maintain their local licenses so long as they are engaged in good faith efforts to get a State license.**

Please Consider Breaking Up Types of Processing Permits. It might be useful to consider different levels of processing facilities. It may be that a group of neighbors collectively processing on one farmer's properly permitted farm may be different than a large processing company that takes in hundreds of farmers' product for processing. It also may be that processors that also provide a distribution service are different from those that do not in terms of type of facility and zoning. Additionally, it may be helpful to license a mobile processing facility.

There Are Some Confusing And Perhaps Redundant Sections.

Thank you for all of your hard work and for your consideration of these important clarifications.

Respectfully submitted,

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