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“We change laws.”

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Dear Secretary Murphy,
(CC: John J. Collins, Lawrence Clark, Eric Hagarty)

Thank you for your department’s continuing commitment to swiftly implement a comprehensive and compassionate medical marijuana program for Pennsylvania patients. The recently released temporary regulations reflect a detailed and thoughtful drafting process. We have thoroughly reviewed the language and offer some suggestions to strengthen the temporary regulations.

Application deadline: Providing patient access to medication as quickly as possible must be a priority, but it is also vital that applicants have enough time to prepare and complete applications. Allowing applicants suitable time to begin preparation between the publishing of the regulations and the release of the application would make this achievable. In addition, some requirements, as discussed below, could be modified to make application completion less time-consuming.

Municipality involvement: Similar requirements in other states have allowed local authorities to interfere with an applicant’s success based not on the suitability of the applicant, but on opposition to the presence of a marijuana related business. To ensure objectivity, it would be preferable to simply require evidence that they are complying with municipal laws and regulations.

Applicants operate under significant time constraints, which can limit their ability to become involved in the community. For wealthier applicants, it would be possible to quickly create a favorable relationship with the municipality and its representatives through financial investment in the area, whereas smaller businesses would need more time to develop relationships. Therefore, if included, this factor could count for a smaller portion of the applicant’s score on an initial application but be a more significant factor in a renewal application. **§ 1141.26(c)**

Expanded disclosure requirements: Although it does not appear disclosure will result in automatic disqualification, it could still create a chilling effect. For example, an experienced candidate may not apply for a permit, or an applicant may not hire an otherwise well-qualified individual. This is particularly problematic when considering the racial disparities evident in the enforcement of laws. The statute clearly defines what criminal incidents disqualify an individual from involvement in a medical marijuana organization. It is unnecessary to go beyond those parameters. **§ 1141.28(b)(7)(v)**

Source of capital funding: Applicants will likely include businesses that operate lawfully under the laws of other states. However, like all marijuana businesses, they are in violation of federal law and would be disqualified under the current language. Excluding experienced applicants on this basis would eliminate some of the most experienced and qualified businesses. Therefore, the language should be clarified to make exceptions for these types of businesses. **§1141.33**

Change in business requirement: A transfer of ownership affecting 5% of stock or equity should not trigger an applicant to surrender a permit and reapply. Forcing businesses to spend an additional \$210,000 should be reserved for a more significant transfer, such as anything above 45%. **§ 1141.37(b)(1)**

Applications for alterations: Growers should not have to file an alteration application for the installation or replacement of electric fixtures or equipment, the lowering of a ceiling, or electrical modifications to increase power usage. Awaiting approval on matters that could be left to the discretion of cultivators could result in damages to crops and reduce production of medication. **§ 1141.40(d)(3)**

Relocation timeline: Relocation of an existing cultivation operation could require more than the maximum 240 days allowed. Growers and processors should be allowed more time, in order to avoid mistakes that could occur when rushing to meet an unachievable timeline. **§ 1141.39(f)(2)**

Start up inventory: The draft rules would only allow growers to obtain seeds from out of state during the first 30 days of operation. **§ 1151.25** This would deprive patients of strains that could help them. Growers in other states may develop new strains that better treat certain conditions, and patients in Pennsylvania should not be exempt from medical advancements.

Further, growers should not be limited to using seeds from out of state. Many cultivators report greater success rates and faster cultivation from clones — sections of female plants that can be used to grow another plant. Both seeds and clones should be allowed.

Security requirements: Some of the security and surveillance requirements are onerous and in some cases redundant, creating an undue burden on businesses. It is possible to achieve a secure facility without taking measures such as utilizing a backup alarm system from a second company. Similar requirements were issued for New York businesses that reported them to be costly and unnecessary. It is in the best interest of businesses to protect their investment, and they should have more leeway to determine the specifics of securing their unique facility. **§1151.27**

Permitted activities: “A grower/processor may not produce medical marijuana in dry leaf or plant form” should be clarified to indicate an exception when dry leaf and plant form is necessary to create the permitted forms. **§ 1151.29(b)**

Supply requirements: Growers and processors cannot always guarantee the availability of specific product. Failed crops, equipment malfunctions, and other factors beyond the control of the business owner can affect availability. Business owners should not be penalized in those circumstances. Further, it may be difficult for the department to determine what constitutes a one-year supply due to varying patient populations and usage rates. **§ 1151.30(b)**

We would be happy to discuss any of these matters with you further. Please do not hesitate to contact us.



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