



**Cannabis Advisory Committee**  
**Recommendations on the State Cannabis Licensing Authorities' Regulations**

**SUBCOMMITTEE ON CULTIVATORS**

**RECOMMENDATIONS RELATED TO REGULATORY CHANGES**

**RECOMMENDATION #1: Generator Hour Meters**

Adopted by the Subcommittee on: 2-13-18

Vote: 3-0

Impacted Regulations: Cal. Code Regs., tit. 3, § 8306 (Generator Requirements)

**Recommendation:** Amend Section 8306(d) to allow after-market non-resettable hour meters be installed, if feasible.

**Staff Comments from CDFA:** Current regulations do not prohibit the use of after-market meters.

**RECOMMENDATION #2: Outdoor Cultivation Definition**

Adopted by the Subcommittee on: 2-13-18

Vote: 3-0

Impacted Regulations: Cal. Code Regs., tit. 3, § 8000 (Definitions), § 8101 (Annual License Application Fees), § 8200 (Annual License Fees), § 8201 (Cultivation Licensing Types)

**Recommendation:** The definition of outdoor cultivation should allow the use of light deprivation techniques, provided that it does not allow for the increase in the number of crop cycles.

**Staff Comments from CDFA:** This recommendation would be difficult to implement and track if an outdoor cultivator could have more than one harvest by using light deprivation. We want to avoid associating the definition of indoor, outdoor and mixed-light to number of harvests.

**RECOMMENDATIONS REQUIRING STATUTORY CHANGES**

**RECOMMENDATION #3: Composting and Waste**

Adopted by the Subcommittee on: 2-13-18

Vote: 3-0

Impacted Regulations: Cal. Code Regs., tit. 3, § 8106 (Cultivation Plan Requirements), § 8108 (Cannabis Waste Management Plan), § 8308 (Cannabis Waste Management), § 8400 (Records and Retention), § 8402 (Track-and-Trace System)

**Recommendation:** Allow Chair Nevedal to make a recommendation, based on public and committee comments, to provide clarity on composting, the definition of waste, and the ability to sell unused waste products lacking cannabinoids.

**Staff Comments from CDFA:** May require a statutory change depending on what the final recommendation is.

**RECOMMENDATION #4: Cottage Licenses**

Adopted by the Subcommittee on: 2-13-18

Vote: 3-0

Impacted Regulations: Cal. Code Regs., tit. 3, § 8201 (Cultivation License Types)

**Recommendation:** Add square footage (“or 2,500 square feet” and “or “5,000 square feet”) to specialty cottage and cottage licenses, respectively, if possible, and if not direct staff to pursue a legislative fix to allow for such a change.

**Staff Comments from CDFA:** Requires a statutory change. BPC 26061 defines the square footage allowances for specialty cottage licenses.

**RECOMMENDATION #5: Transport by Cultivators**

Adopted by the Subcommittee on: 2-13-18

Vote: 3-0

Impacted Regulations: N/A

**Recommendation:** Cultivators should be allowed to transport their product to nearby licensed processors without obtaining additional licensure, so long as they account for the net weight of the product.

**Staff Comments from CDFA:** Requires a statutory change. Cultivation licenses do not include the ability to transport and there is no statutory authority for CDFA cultivation licenses to authorize transportation.

**RECOMMENDATION #6: Transfer Between A & M Licenses**

Adopted by the Subcommittee on: 3-1-18

Vote: 3-0

Impacted Regulations: Cal. Code Regs., tit. 3, § 8214 (Transition Period), § 8601 (Administrative Actions)

**Recommendation:** Recognizing that the existing system of keeping Adult Use & Medicinal Use separate places a great financial, planning and efficiency burden on cultivators, potentially affecting the supply chain, recommend allowing cultivated materials to be transferred between A and M license types until the point of sale.

**Staff Comments from CDFA:** Requires a statutory change.

**RECOMMENDATION #7: Compassionate Use Programs**

Adopted by the Subcommittee on: 3-1-18

Vote: 3-0

Impacted Regulations: N/A

**Recommendation:** Language should be developed to create a cultivation-based tax incentive for products being set aside for compassionate use programs.

**Staff Comments from CDFA:** Requires a statutory change.

**RECOMMENDATION #8: Harvest Batch**

Adopted by the Subcommittee on: 3-1-18

Vote: 3-0

Impacted Regulations: Cal. Code Regs., tit. 3, § 8000 (Definitions), § 8403 (Track-and-Trace System Unique Identifiers (UID)), § 8601 (Administrative Actions)

**Recommendation:** Cultivators should be able to batch per area at the time of harvest for track and trace purposes and that they should not need to identify each harvest back to the individual plant.

**Staff Comments from CDFA:** Requires a statutory change. Statute requires that all cannabis and cannabis products be traceable back to the cultivator and the individual plants unique identifier (Bus. & Prof. Code section 26067 and 26069).

### **RECOMMENDATION #9: Lab Testing System**

Adopted by the Subcommittee on: 3-1-18

Vote: 3-0

Impacted Regulations: Cal. Code Regs., tit. 3, § 8210 (Sample Collection by the Bureau)

**Recommendation:** The CAC make changes to the lab testing system to address the burdens that may impede a path to legalization, such as the loss of strains, high costs, insufficient accuracy levels, lack of protections to the cultivator, among others.

**Staff Comments from CDFA:** May require a statutory change.

### **RECOMMENDATION #10: Requirements for Nurseries**

Adopted by the Subcommittee on: 3-1-18

Vote: 3-0

Impacted Regulations: Cal. Code Regs., tit. 3, § 8000 (Definitions), § 8106 (Cultivation Plan Requirements), § 8200 (Annual License Fees and Requirements), § 8201 (Cultivation License Types), § 8213 (Requirements for Weighing Devices and Weighmasters), § 8301 (Seed Production Requirements for Nurseries), §8403 (Track-and-Trace System Unique Identifiers (UID))

**Recommendation:** Consideration of issues related to scaled licensing tiers for nurseries, packaging seeds in batch count by bulk weight, establishing genetic repositories, providing flexibility to develop genetic diversity, allowing cultivators to transport propagated plant material and seeds; removing the requirement for nurseries to designate seed and/or plant stock as A or M material; allowing cultivators to provide nurseries with genetic stock; and allowing cultivators to provide other cultivators with plant materials in an emergency, provided proper documentation for all of the above.

**Staff Comments from CDFA:** Parts of this recommendation require statutory changes.

### **RECOMMENDATION #11: Self-Transport Distribution**

Adopted by the Subcommittee on: 3-1-18

Vote: 3-0

Impacted Regulations: N/A

**Recommendation:** Create a mechanism for cultivators to conduct self-transport distribution of their own product to a centralized processing facility, manufacturing facility, distributor or a lab for pre-testing, without the same requirements of the existing transportation license—including BCC regulation sections 5044 and 5047—by either amending the existing transportation distribution license or creating a new license type.

**Staff Comments from CDFA:** Requires a statutory change.

## SUBCOMMITTEE ON DISTRIBUTORS

### RECOMMENDATIONS RELATED TO REGULATORY CHANGES

#### RECOMMENDATION #1: Selling Samples

Adopted by the Subcommittee on: 3-1-18

Vote: 5-0

Impacted Regulations: Cal. Code Regs., tit. 16, § 5411 (Free Cannabis Goods)

**Recommendation:** The Bureau should address how, if at all, licensees may provide samples for a nominal fee, both for B to B and B to C situations.

#### **Staff Comments from BCC:**

- This recommendation would allow licensees to provide samples of cannabis and cannabis goods to other licensees, which are not intended for retail sale. Currently, the Bureau does not have regulations regarding the pricing of cannabis and cannabis products; **pricing decisions are considered a business decision that is left to licensees to determine.**
- Allowing licensees to “sample” cannabis and cannabis goods for a nominal fee **would not run counter** to Business and Professions Code section 26153 which provides that “a licensee shall not give away any amount of cannabis or cannabis products, or any cannabis accessories, as part of business promotion or other commercial activity.”

#### RECOMMENDATION #2: Additional Label

Adopted by the Subcommittee on: 3-1-18

Vote: 5-0

Impacted Regulations: Cal. Code Regs., tit. 16, § 5303 (Packaging and Labeling)

**Recommendation:** In addition to all the rights and responsibilities afforded to a licensee regarding packaging and labeling, how a distributor would also be allowed to apply an additional label to the final product, if the final product’s test results are inconsistent with the existing printed results. Variations within a 10% range excluded.

#### **Staff Comments from BCC :**

- Currently, section 5303 of the Bureau’s regulations provides an overview of a distributor’s ability to package, re-package, label, and re-label cannabis for retail sale. This section prohibits distributors from packaging and/or labeling manufactured cannabis products except when the distributor also holds a manufacturing license and is packaging and/or labeling their own manufactured cannabis goods. Section 5303 also allows a distributor to re-label a manufactured good’s package with an accurate THC amount, provided the product is within the THC limits for sale. **This recommendation would enable distributors to relabel a package for other cannabinoids.**

#### RECOMMENDATION #3: Storage Only Center License

Adopted by the Subcommittee on: 3-1-18

Vote: 5-0

Impacted Regulations: Cal. Code Regs., tit. 16, §§ 5014 (Fees), § 5301 (Storage-Only Services)

**Recommendation:** Create a subcategory license, under the distribution license, designated as storage only center that’s allowed to hold inventory and transport product. The transaction portion would remain under the full distribution license holder.

### Staff Comments from BCC:

- Business and Professions Code section 26053, subdivision (d) provides that each applicant or licensee shall apply for, and if approved, shall obtain a separate license for each location where it engages in commercial cannabis activity.
- Recognizing that a license is required for each location or “premises,” this recommendation seeks to allow for a licensee to have a primary “distribution premises” and a new class of licenses for “storage-only” distribution hubs. This would enable distributors to have satellite premises located statewide.
- **Creating a new class of distribution licenses would require the Bureau to reconfigure its license system which would have a significant fiscal impact.** The processing of these applications would also be more complex, as the Bureau would need to evaluate more than one premises per license. These impacts would require a review of licensing fees to determine if the fees established for distributors currently would cover the Bureau’s increased costs related to reconfiguring its licensing system and the additional resources needed for reviewing multiple premises for one license.

### RECOMMENDATION #4: Transition Period Extension

Adopted by the Subcommittee on: 3-1-18

Vote: 5-0

Impacted Regulations: Cal. Code Regs., tit. 16, § 5029 (Transition to Regulated Commercial Cannabis Market)

**Recommendation:** Extend the transition period from 6 months to 12 months to allow transactions between A and M license.

### Staff Comments from BCC:

- Recognizing the importance of allowing for a stable supply-chain to develop, section 5029 of the Bureau’s regulations **allow for licensees to conduct business with other licensees irrespective of the “M” or “A” designation on their licenses before July 1, 2018.** This recommendation would extend this ability for a limited time, until December 31, 2018, to enable more prospective licensees to obtain licensure before the transition period is over.

## RECOMMENDATIONS REQUIRING STATUTORY CHANGES

### RECOMMENDATION #5: Multiple Distribution Hubs

Adopted by the Subcommittee on: 2-13-18

Vote: 5-0

Impacted Regulations: Cal. Code Regs., tit. 16, §§ 5014 (Fees), § 5301 (Storage-Only Services)

**Recommendation:** The Bureau should consider allowing multiple distribution hubs without requiring separate licenses for each location.

### Staff Comments from BCC:

- This recommendation would allow for one main distributor premises, with unlicensed “distribution hubs” located throughout the state. **The Bureau is unable to carry out this recommendation due to statutory limitations.** Specifically, Business and Professions Code section 26053, subdivision (d) provides that each applicant or licensee shall apply for, and if approved, shall obtain a separate license for each location where it engages in commercial cannabis activity.
- **This recommendation would limit the Bureau’s ability to maintain accurate records on the individual locations where commercial cannabis activities are taking place statewide.** Finally, as part of the licensing process, the Bureau is required to contact the local jurisdiction where the proposed

premises will be to verify that the applicant is in compliance with the local jurisdiction. Allowing unlicensed locations **would be going around the local approval process.**

**RECOMMENDATIONS RELATED TO REGULATORY CHANGES**

**RECOMMENDATION #1: Enforcement Authority**

Adopted by the Subcommittee on: 2-13-18

Vote: 7-0

Impacted Regulations: Cal. Code Regs., tit. 16, § 5800 et seq., § 5040, and § 5041

**Recommendation:** The Bureau should 1) clearly identify the enforcement authority regarding advertisement and placement; 2) clearly communicate who the enforcement authority is and how to contact them with complaints; 3) collect data on enforcement actions; and 4) require all advertisements have information regarding the license holder placing the advertisement.

**Staff Comments from BCC:**

- 1) **Each licensing authority has the ability to enforce statutory and regulatory provisions for its licensees.** In addition to the licensing authorities, there are also provisions of law related to advertising enforced by other agencies, such as the Outdoor Advertising Act, codified under Business and Professions Code section 5200, which is under the authority of the Department of Transportation.
- 2) **All licensing authorities have contact information for where to submit complaints.** The Bureau accepts complaints through its online system or by phone, email, or mail.
- 3) **All licensing authorities will be collecting data related to its enforcement actions.**
- 4) Business and Professions Code section 26151 **requires all advertisements and marketing to identify the licensee** placing the advertisement by requiring their state license number.

**RECOMMENDATION #2: Clarify Difference Between Citations and Orders of Abatement and Clarify References**

Adopted by the Subcommittee on: 2-13-18

Vote: 7-0

Impacted Regulations: Cal. Code Regs., tit. 16, § 5802 (Citations; Orders of Abatement; Administrative Fines)

**Recommendation:** The Bureau of Cannabis Control should 1) clarify an order of abatement versus a citation; 2) clean up language and clarify its process and procedural guidelines within the regulations, reference and citation sections.

**Staff Comments from BCC:**

- The Bureau **can examine the text of the regulations to determine what clarifications could be made** in the language to clarify the differences between a citation and order of abatement. The reference list within each regulatory section is required by statute.

**RECOMMENDATION #3: Video Surveillance**

Adopted by the Subcommittee on: 3-1-18

Vote: 7-1

Impacted Regulations: Cal. Code Regs., tit. 16, § 5044 (Video Surveillance System)

**Recommendation:** All licensing authorities should require that all areas where waste is stored, processed, handled, and properly disposed of, be covered by video surveillance.

**Staff Comments from BCC:**

- The licensing authorities could consider adding this requirement; however, this **would increase the costs for licensees** to have additional video surveillance equipment and video storage.

**RECOMMENDATION #4: Security Personnel Standards**

Adopted by the Subcommittee on: 3-1-18

Vote: 8-0

Impacted Regulations: Cal. Code Regs., tit. 16, § 5045 (Security Personnel)

**Recommendation:** All licensing authorities should consider establishing standards for security personnel for cultivation, manufacturing and distribution.

**Staff Comments from BCC:**

- Current regulations require all retail licensees, microbusiness licensees that engage in retail sale, and event organizers to hire or contract for security personnel. **Extending this requirement to all licensees would increase costs for licensees** who have premises that are not open to the public.

**RECOMMENDATION #5: Health Related Claims**

Adopted by the Subcommittee on: 3-1-18

Vote: 4-3-1

Impacted Regulations: N/A

**Recommendation:** The Department of Public Health should develop enforcement provisions to ensure that the public has the ability to challenge health related claims about cannabis and a means to adjudicate evidence for their claims.

**Staff Comments from CDPH:**

- This is addressed as a label prohibition in Section 40410 (e) any health-related statement that is untrue or misleading. Any health-related statement must be supported by the totality of publicly available scientific evidence (including evidence from well-designed studies conducted in a manner which is consistent with generally recognized scientific procedures and principles), and for which there is significant scientific agreement, among experts qualified by scientific training and experience to evaluate such claims.

**RECOMMENDATION #6: Advertising**

Adopted by the Subcommittee on: 2-13-18

Vote: 7-0

Impacted Regulations: Cal. Code Regs., tit. 16, § 5040 (Advertising Placement) and § 5041(Age Confirmation in Advertising)

**Recommendation:** The Bureau should 1) clarify rules and provide direction regarding what type and where advertising is allowed; 2) collect data on when and where advertising rules were violated and if the violation was targeted to minors.

**Staff Comments from BCC:**

- **Business and Professions Code section 26150 defines “advertisement”** for the purposes of the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). Advertising is prohibited near schools, day care centers and youth centers, as well as on billboards on an interstate or state highway that crosses the California Border by statute. Additionally, advertisement is restricted to where at least 71.6% is reasonably expected to be 21 years of age or older.



- **The Bureau cannot change these statutory requirements but could explore clarifying the language within its regulations.** Each licensing authority will have data regarding any disciplinary action taken against its licensees for violations, including advertising targeted towards minors.

**RECOMMENDATION #7: Unlicensed Collectives**

Adopted by the Subcommittee on: 2-13-18

Vote: 4-3

Impacted Regulations: Cal. Code Regs., tit. 16, § 5800 et seq. (Enforcement)

**Recommendation:** The Bureau, before taking any enforcement action on unlicensed collectives should give the business the opportunity to demonstrate an attempted effort for good faith compliance.

**Staff Comments from BCC:**

- **The Bureau has discretion to provide warnings and education** to a person on how to obtain a license as well as to consider information from a person before taking an enforcement action.

**RECOMMENDATION #8: Public Records Act Requests**

Adopted by the Subcommittee on: 2-13-18

Vote: 7-0

Impacted Regulations: N/A

**Recommendation:** The Bureau should include language in regards to sharing information between the Bureau and local government entities that acknowledge the information shared is in accordance with the public requests act and protects information that is not discoverable under the public information requests act.

**Staff Comments from BCC:**

- The Bureau is required to follow the laws related to access to information under the Public Records Act. **The Bureau’s regulations apply only to licensees therefore, such statement would not be appropriate in regulation.**

**RECOMMENDATION #9: Labor Standards**

Adopted by the Subcommittee on: 3-1-18

Vote: 8-0

Impacted Regulations: Cal. Code Regs., tit. 16, § 5800 et seq. (Enforcement)

**Recommendation:** All licensing authorities should explore amending the regulations to include violations of labor standards as part of the licensing process and enforcement, which should include revocation of the license.

**Staff Comments from BCC:**

- Business and Professions Code section 26201 states that the standards established by the state for health and safety, environmental protection, food safety, security, testing, and worker protections **shall be the minimum standards for all licensees statewide**. Additionally, Business and Professions Code section 26030 provides as grounds for discipline, failure to comply with any state law, or knowing violations of any state or local law, ordinance, or regulation conferring worker protections or legal rights on the employees of a licensee. Therefore, **the statute already provides for this recommendation in part.**
- The Bureau **can amend regulations** to include a requirement that applicants disclose any prior labor violations and provide that prior violations may be grounds for denial of a license.

## RECOMMENDATIONS REQUIRING STATUTORY CHANGES

### RECOMMENDATION #10: Waste

Adopted by the Subcommittee on: 3-1-18

Vote: 8-0

Impacted Regulations: Cal. Code Regs., tit. 16, § 5054 (Destruction of Cannabis Products Prior to Disposal) and § 5055 (Cannabis Waste Management)

**Recommendation:** In order to be consistent with the protection of health and safety, we recommend to all licensing authorities that they explore differentiating types of waste and explore the possibility of a cannabis-specific licensed waste hauler, and the possibilities of usage of waste beyond destruction.

#### **Staff Comments from BCC:**

- The **licensing authorities do not have jurisdiction to license waste haulers.**
- Waste management laws under Division 30 of the **Public Resources Code contain requirements applicable to waste, including cannabis waste.** Any provisions regarding waste must be consistent with the Department of Resources Recycling & Recovery (CalRecycle), and local agencies responsible for administration of California's statutes and regulations pertaining to solid waste management.
- Current regulations allow for a licensee to self-haul cannabis waste to one, or more, of the solid waste facilities, or to allow a waste hauler permitted by a local agency to do so. Further, current regulations allow for licensees to compost cannabis waste on their licensed premises.

### RECOMMENDATION #11: Online Advertising

Adopted by the Subcommittee on: 2-13-18

Vote: 7-0

Impacted Regulations: Cal. Code Regs., tit. 16, § 5040 (Advertising Placement)

**Recommendation:** Look into the possibility of having any unlicensed businesses' online advertising and marketing removed.

#### **Staff Comments from BCC:**

- The licensing authorities, as well as local jurisdictions, may take action for unlicensed activity when it violates law. However, **the licensing authorities' regulatory authority only extends to licensees.**

### RECOMMENDATION #12: Local Government Communication on Licensees

Adopted by the Subcommittee on: 2-13-18

Vote: 7-0

Impacted Regulations: N/A

**Recommendation:** The Bureau should clearly identify a path for communication between the Bureau and local governments to share information regarding licensees' application information, criminal or civil judgments or disciplinary action. The communication should happen within a mandated timeframe with protocols in place for communication acknowledgment.

#### **Staff Comments from BCC:**

- Business and Professions Code section 26055 **already establishes a path of communication with the local jurisdictions** regarding local ordinances and applications. The Bureau is currently using this path of communication to effectively share information with local jurisdictions.

### **RECOMMENDATION #13: Local Government Communication on Violations**

Adopted by the Subcommittee on: 2-13-18

Vote: 7-0

Impacted Regulations: N/A

**Recommendation:** The Bureau should clearly identify a path for communication between the Bureau and local governments regarding labor code violations, OSHA violations, fire code violations and any other local violations.

#### **Staff Comments from BCC:**

- Business and Professions Code section 26055 **already establishes a path of communication with the local jurisdictions** regarding local ordinances and applications. The Bureau is currently using this path of communication to effectively share information with local jurisdictions.

### **RECOMMENDATION #14: Hazard Identification Standards**

Adopted by the Subcommittee on: 3-1-18

Vote: 8-0

Impacted Regulations: N/A

**Recommendation:** All regulatory agencies should standardize how hazards that are unique to the cannabis industry are identified and how fire agencies statewide are notified of such hazards.

#### **Staff Comments from BCC:**

- The licensing authorities **do not have authority to promulgate regulations for fire agencies.**

### **RECOMMENDATION #15: Education for First Responders**

Adopted by the Subcommittee on: 3-1-18

Vote: 8-0

Impacted Regulations: N/A

**Recommendation:** Licensing agencies should quickly start to address the educational needs of first responders related to cannabis.

#### **Staff Comments from BCC:**

- The Bureau **does not have authority to promulgate regulations for first responders.**
- However, the licensing authorities are working with local jurisdictions on issues related to commercial cannabis operations, including providing education materials when appropriate. Educational efforts of the licensing programs must be funded by the revenue generated from licensing fees; thereby, **may increase the costs for licensees.**

## SUBCOMMITTEE ON EQUITY

### RECOMMENDATIONS RELATED TO REGULATORY CHANGES

#### RECOMMENDATION #1: State Level Equity Licensing Program

Adopted by the Subcommittee on: 2-13-18

Vote: 3-0

Impacted Regulations: N/A

**Recommendation:** The Bureau and the state licensing authorities should develop a state-level equity licensing program that supports the local equity licensing programs that have been developed and supports equity applicants from jurisdictions where programs have not been developed.

#### **Staff Comments from BCC:**

- The licensing authorities **can consider** developing a state equity program.
- However, the state will face **significant challenges in developing a program that meets the needs of each local jurisdiction**. The state will have to ensure that the regulations do not conflict or restrict local programs which may be impossible given the large number of jurisdictions – 482 cities and 58 counties - within the state.

#### RECOMMENDATION #2: Earmarks, Fee Waivers, and Loans

Adopted by the Subcommittee on: 3-1-18

Vote: 4-0

Impacted Regulations: Cal. Code of Regs., tit. 16, § 5014 (Fees)

**Recommendation:** Consider providing earmarks from tax revenue for equity programs, licensing fee waivers, and possible loans and/or low interest loan programs to allow for the payment of licensing fees at a later date for applicants that have already been approved for extensions at the city-level. Use transparent, voluntary information and data collection regarding equity applicants, such as an applicant's race, to drive policy decisions.

#### **Staff Comments from BCC:**

- Business and Professions Code sections 26012 and 26180 *et seq.* require the imposition of scaled fees based on an amount that funds the cost of the licensing authorities' programs. The licensing authorities **could consider reducing fees for certain applicants**; however, the total amount of fees collected must still equal the cost of the regulatory program's expenses so **those amounts would likely be paid by other licensees**.
- Currently, the licensing authorities **do not have specific authority to provide loans**. Earmarks, fee waivers, or loans to licensees would have to be accounted for in the Bureau's budget which must be submitted to and approved by the Department of Finance through the annual budgeting process.

#### RECOMMENDATION #3: Fee Installments and Deferrals

Adopted by the Subcommittee on: 3-1-18

Vote: 4-0

Impacted Regulations: Cal. Code of Regs., tit. 16, § 5014 (Fees)

**Recommendation:** Include an option to pay fees in installments or defer fees for social equity applicants. Modify the regulations to allow a license to be issued, contingent on continued payment of the fee if in installments.

### Staff Comments from BCC:

- Business and Professions Code sections 26012 and 26180 *et seq.* require the imposition of scaled fees based on an amount that funds the cost of the licensing authorities' programs. The licensing authorities **could only consider installment payments of fees that still allow them to collect funds** that meet the annual costs of the licensing programs.
- Further, there would be a **fiscal impact to the Bureau** for the costs associated with reconfiguring the licensing system, making changes to the Bureau's licensing program including changes to the regulations, and to account for the additional staff time for tracking the payments. **These increased costs would need to be accounted for in the licensing fees which could lead to an overall increase in fees.**

## RECOMMENDATIONS REQUIRING STATUTORY CHANGES

### RECOMMENDATION #4: Research Support

Adopted by the Subcommittee on: 3-1-18

Vote: 4-0

Impacted Regulations: N/A

**Recommendation:** All types of funding and bidding processes are considered by the state to acquire funds to cover the cost of research on diversity issues in the cannabis industry.

### Staff Comments from BCC:

- Revenue and Taxation Code section 34019 allocates cannabis revenue and provides for disbursements from the Tax Fund, for various purposes including youth and educational programs, research on the impact of the cannabis laws, and public safety measures. **Various state agencies are responsible for determining the criteria and the recipients of money from this fund.**

### RECOMMENDATION #5: Access to Property and Premises

Adopted by the Subcommittee on: 2-13-18

Vote: 3-0

Impacted Regulations: Cal. Code of Regs., tit. 16, § 5025 (Premises)

**Recommendation:** As part of a social equity program, the three licensing authorities to the extent allowed by statute, should explore access for equity applicants to property and premises. This could include working with local licensing programs to allow annual licensees to sublease a portion of their licensed premises to an equity applicant; allowing co-location or shared premises by equity applicants; developing pre-licensing programs for equity applicants; and, to the extent possible, creating incentives and protections for property owners to lease to equity applicants.

### Staff Comments from BCC:

- Business and Professions Code section 26053 requires each applicant and licensee must apply for and obtain a license for each location where commercial cannabis activity is conducted. The regulations allow for co-location on a parcel or in a facility if each licensee has a separate designated area that makes up its premises. **The licensing authorities only have the authority to promulgate regulations applicable to applicants and licensees, not property owners.**

### RECOMMENDATION #6: Data Collection

Adopted by the Subcommittee on: 3-1-18

Vote: 4-0

Impacted Regulations: N/A

**Recommendation:** Strongly urge the state licensing authorities to voluntarily and anonymously collect demographic and other data (e.g. prior convictions, veteran status, etc.) to determine equity in licensing and explore options for making the data available to the public. Create a data use policy that characterizes the quality of the data collected.

**Staff Comments from BCC:**

- **Existing laws does have requirements for data collection.** For example, the Information Practices Act, codified under Civil Code section 1798 et seq., limits the collection, management and dissemination of personal information by state agencies. Specifically, Civil Code section 1798.14 provides that each state agency shall maintain in its records only personal information which is relevant and necessary to accomplish a purpose of the agency required or authorized by the California Constitution or statute.

**OTHER**

**RECOMMENDATION #7: Funding of a Social Equity Program**

**Adopted by the Subcommittee on:** 2-13-18

**Vote:** 3-0

**Impacted Regulations:** N/A

**Recommendation:** The three licensing entities should develop a social equity program that takes into consideration the work that the local licensing authorities have done in this area and consider developing a mechanism to prioritize the funding and the costs of developing a social equity program.

**Staff Comments from BCC:**

- The Bureau must prioritize funding to meet its obligations under the Medicinal and Adult-use Cannabis Regulation and Safety Act (MAUCRSA), which does not currently contain provisions for a social equity program, therefore **it could not be prioritized over other obligations.**
- However, **the Bureau will be examining the feasibility of a non-profit license** as required by Business and Professions Code section 26070.5.

**RECOMMENDATION #8: Local Program Models**

**Adopted by the Subcommittee on:** 3-1-18

**Vote:** 4-0

**Impacted Regulations:** N/A

**Recommendation:** In the development of a state equity program, information, processes, and models from existing equity programs in Sacramento, Los Angeles, San Francisco, and Oakland should be examined and utilized. This information should be used to support the development of a state-adopted policy statement that embraces a statewide equity program.

**Staff Comments from BCC:**

- The licensing authorities have examined the equity programs referenced above and will be able to use this information to support the development of any state equity program.
- However, **the state will face significant challenges in developing a program that meets the needs of each local jurisdiction.** The state will have to ensure that the regulations do not conflict or restrict local programs which may be impossible given the large number of jurisdictions within the state.

## SUBCOMMITTEE ON LICENSING APPLICATION

### RECOMMENDATIONS RELATED TO REGULATORY CHANGES

#### RECOMMENDATION #1: Labor Standards

Adopted by the Subcommittee on: 2-13-18

Vote: 2-1

Impacted Regulations: N/A

**Recommendation:** Applicants should be required to submit a plan for compliance with labor standards and disclose previous labor law violations.

#### **Staff Comments from BCC:**

- Business and Professions Code section 26051.5 requires an applicant to submit to the licensing authority specific procedures which do not include compliance with labor standards. Additionally, Business and Professions Code section 26051 contains requirements related to labor peace agreements.
- If the regulations were amended as recommended **the licensing authorities would need additional resources** to obtain documentation related to previous labor law violations, review the information, and make determinations as to whether a license would be denied based on those violations. Further, **this evaluation would extend the time to process an application while the prior violations are investigated and evaluated.**

#### RECOMMENDATION #2: Disclosure of Owners

Adopted by the Subcommittee on: 3-1-18

Vote: 3-0

Impacted Regulations: Cal. Code Regs., tit. 16, § 5002 (Annual License Application Requirements)

**Recommendation:** Require an applicant for an annual license who lists any corporation or other entity as an owner, to also disclose the names of the owner(s) of the corporation or other entity.

#### **Staff Comments from BCC:**

- An owner includes a person with an aggregate ownership interest of 20% or more in the person applying for a license, which can include a firm, association, corporation, limited liability company, or other entity. Any owner that is an entity is required to be disclosed to the Bureau.
- **The regulations could be amended to clarify this requirement.**

#### RECOMMENDATION #3: Information from Corporation Owners

Adopted by the Subcommittee on: 3-1-18

Vote: 2-1

Impacted Regulations: Cal. Code of Regs., tit. 16, § 5004 (Financial Interest in a Commercial Cannabis Business)

**Recommendation:** Require any corporation or other entity listed on the annual license application who has a financial interest, to disclose the name, birthdate, and copy of government issued identification for all individuals who are the owner(s) of the corporation or other entity. These individuals shall not be required to submit the information required of owners under Section 5002 (c) (20).

**Staff Comments from BCC:**

- Business and Professions Code section 26051.2, subdivision (d) requires that the application include a list of every person with a financial interest in the business to be licensed.
- Section 5004 of the Bureau’s regulations further defines a financial interest, and the information that must be provided for all individuals with a financial interest.
- The **regulations could be amended to clarify** that the list must also include entities, not just individuals, with a financial interest.

**RECOMMENDATION #4: Annual Fees**

Adopted by the Subcommittee on: 3-1-18

Vote: 3-0

Impacted Regulations: Cal. Code of Regs., tit. 16, § 5014 (Fees)

**Recommendation:** The licensing authorities should evaluate the amount of annual fees, especially fees paid by people with disabilities and military veterans.

**Staff Comments from BCC:**

- Business and Professions Code sections 26012 and 26180 *et seq.* provide for the collection of fees, including the requirement to establish a fee scale based on the size of the business that covers the cost of enforcement and administration.
- The licensing authorities **are not required to levy a specific fee and could explore different fees as needed.**

**RECOMMENDATION #5: A and M Licenses and Transition Period**

Adopted by the Subcommittee on: 3-1-18

Vote: 3-0

Impacted Regulations: Cal. Code of Regs., tit. 16, § 5014 (Fees) and § 5029 (Transition to Regulated Commercial Cannabis Market)

**Recommendation:** Combine application and annual renewal fees for A and M licensees conducting the same business activities at the same licensed premises and to extend the grace period until January 1, 2020 under Section 5029 subdivision (b)(1).

**Staff Comments from BCC:**

- Business and Professions Code sections 26012 and 26180 *et seq.* provide for the collection of fees, including the requirement to establish a fee scale based on the size of the business that covers the cost of enforcement and administration.
- The licensing authorities **are not required to levy a specific fee and could explore a combined fee** for a person seeking an M and an A license for the same cannabis activity.
- Section 5029 of the Bureau’s regulations provide for a transition period which allows licensees to conduct business with other licensees irrespective of the “M” or “A” designation. The regulations could be amended to change the end date of the transition period; however, this **would further delay implementation of certain regulatory requirements.**

**RECOMMENDATION #6: Use of Preparers**

Adopted by the Subcommittee on: 2-13-18

Vote: 3-0

Impacted Regulations: Cal. Code of Regs., tit. 16, § 5003 (Designation of Owner)



**Recommendation:** Allow the use of preparers to assist applicant in preparing applications.

**Staff Comments from BCC:**

- **Nothing in law or regulation prohibits an applicant from procuring assistance in preparing the application.** Regulations can be amended to provide for language that allows a third party to submit the application on behalf of the applicant as long as the applicant is ultimately held responsible for the information submitted on its behalf.

**RECOMMENDATIONS RELATED TO REGULATORY CHANGES**

**RECOMMENDATION #1: Illustrative Guide**

Adopted by the Subcommittee on: 3-1-18

Vote: 3-0-1

Impacted Regulations: Cal. Code Regs., tit. 17, §40400 (Applicability), §40401 (Finished Product), §40403 (Labeling Requirements), §40405 (Primary Panel), §40406 (Additional Primary Panel Req.), §40408 (Informational Panel), §40410 (Labeling Restrictions), §40411 (Charac. Anticipated Effects), §40412 (Universal Symbol), §40415 (Packaging), §5303, 5412, 5413 (Bureau), §8212 (CDFA)

**Recommendation:** Create an illustrative guide for packaging and labeling broken down by the components of packaging and labeling.

**Staff Comments from CDPH:** No staff comments.

**RECOMMENDATION #2: Clarification on Packaging**

Adopted by the Subcommittee on: 3-1-18

Vote: 4-0

Impacted Regulations: Cal. Code Regs., tit. 17, §40400 (Applicability), §40401 (Finished Product), §40403 (Labeling Requirements), §40405 (Primary Panel), §40406 (Additional Primary Panel Req.), §40408 (Informational Panel), §40410 (Labeling Restrictions), §40411 (Charac. Anticipated Effects), §40412 (Universal Symbol), §40415 (Packaging), §5303, 5412, 5413 (Bureau), §8212 (CDFA)

**Recommendation:** Provide clarification on the concepts of primary packaging, secondary packaging, and child-resistant packaging (with respect to primary v. secondary) and labeling.

**Staff Comments from CDPH:** No staff comments.

**RECOMMENDATION #3: Child-Resistant Packaging**

Adopted by the Subcommittee on: 3-1-18

Vote: 4-0

Impacted Regulations: Cal. Code Regs., tit. 17, §40415 (Packaging)

**Recommendation:** Clarify how and where child-resistant packaging should be used.

**Staff Comments from CDPH:** No staff comments.

**RECOMMENDATION #4: Dosage Limits**

Adopted by the Subcommittee on: 3-1-18

Vote: 4-0

Impacted Regulations: Cal. Code Regs., tit. 17, §§ 40305-40306 (Req. for Edible and Non-edible Products)

**Recommendation:** Increase the limitation on dosage from 2,000 mg to 4,000 mg for any non-edible medical product that is not restricted by statute; and raise the dosage limitation from 1,000 mg to 2,000 mg for non-edible adult use products.

**Staff Comments from CDPH:** No staff comments.

**RECOMMENDATIONS RELATED TO REGULATORY CHANGES**

**RECOMMENDATION #1: Security Requirements**

Adopted by the Subcommittee on: 2-13-18

Vote: 4-0

Impacted Regulations: Cal. Code Regs., tit. 16, §§ 5042-5047 (Security Requirements)

**Recommendation:** Security requirements for microbusinesses should be determined by the local jurisdiction and the regulations should not be unduly burdensome to small businesses and microbusinesses.

**Staff Comments from BCC:**

- Recognizing that security issues may differ between urban and rural settings, this recommendation suggests that security issues be determined at the local jurisdiction level. Section 26070 of the Business and Professions Code **requires licensed retailers and microbusinesses to 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.
- Prior to the passage of MAUCRSA, the cultivation, manufacturing, distribution, and retail of cannabis and cannabis goods had no restrictions, safety requirements, security safeguards, or generalized standards.
- Sections 5042-5047 of the Bureau's regulations **are intended to ensure that all licensees operate within the same rules**; each licensee must satisfy a minimum-security requirement to prevent unauthorized access, prevent theft, and ensure public safety. Nothing prohibits licensees or local jurisdictions from opting to or requiring additional security requirements.

**RECOMMENDATION #2: License Tiers, Incentives for Compassionate Use and Rural Operators, and Fee Schedule Cap**

Adopted by the Subcommittee on: 3-1-18

Vote: 4-0

Impacted Regulations: N/A

**Recommendation:** In an effort to create an onramp to legalization, there should be a clarification of microbusiness that includes tiers based on gross receipts and number of employees. The fee schedule should be redefined to include a ceiling that delineates when the business is no longer considered a microbusiness. Incentives should be provided based on equity for compassionate use and rural operators.

**Staff Comments from BCC:**

- This recommendation seeks to create an onramp to legalization by having the Bureau reexamine the fee schedule outlined in section 5014 of its regulations and to provide incentives based on equity.
- This recommendation also seeks to make a clear "ceiling" on when a business is no longer considered a microbusiness. Section 26180 of the Business and Professions Code provides the licensing authorities the ability to establish licensing fees.
- **The licensing fees established by the Bureau are based on a study completed by the University of California Agricultural Issues Center** and are intended to satisfy section 26180 of the Business and Professions Code by being **scaled dependent on the size of the business**. In addition, consistent with section 26180 of the Business and Professions Code, the fees have been set at an amount that is intended to fairly and proportionately generate sufficient revenue to cover the costs of administering the Bureau's

operating expenses. The current fee structure does not place a monetary cap on what is considered a microbusiness because one was not identified by section 26070 of the Business and Professions Code.

### **RECOMMENDATIONS REQUIRING STATUTORY CHANGES**

#### **RECOMMENDATION #3: Farm Stand Sales**

Adopted by the Subcommittee on: 2-13-18

Vote: 5-0

Impacted Regulations: Cal. Code Regs., tit. 16, § 5000, subd. (o) (Definitions)

**Recommendation:** Microbusiness licensees should be allowed to utilize farm stand sales as well as farm direct sales model (such as CSAs) without a brick and mortar store to satisfy the retail component of the license.

#### **Staff Comments from BCC:**

- **The Bureau is unable to permit the use of farm stand sales and farm direct sales without a brick and mortar store.** Under the Medicinal and Adult-use Cannabis Regulation and Safety Act (MAUCRSA) only a licensed retailer or microbusiness engaged in retail can sale and deliver cannabis or cannabis products to customers. Under Business and Professions Code section 26070, a retailer shall have a licensed premises which is a physical location from which commercial cannabis activities are conducted. Because the MAUCRSA explicitly requires a licensed premises that is a physical location for retailers, the Bureau is unable to permit the use of farm stand sales or farm direct sales without a brick and mortar store.

#### **RECOMMENDATION #4: Single Premise**

Adopted by the Subcommittee on: 2-13-18

Vote: 5-0

Impacted Regulations: Cal. Code Regs., tit. 16, § 5025 (Premises)

**Recommendation:** All microbusiness activities should not have to take place on a single premise.

#### **Staff Comments from BCC:**

- Recognizing that there may be premises constraints due to local regulations, this recommendation seeks to allow for a microbusiness to be located at multiple locations. **The Bureau is unable to carry out this recommendation due to statutory limitations.** Specifically, Business and Professions Code section 26001, subdivision (ap) defines “premises” as the “designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted.”
- This subdivision also provides that premises shall be contiguous and shall only be occupied by one licensee. Allowing microbusinesses to be located in multiple locations would be in **direct conflict with the statutory provision** that premises be contiguous.

#### **RECOMMENDATION #5: Qualifying Activities**

Adopted by the Subcommittee on: 2-13-18

Vote: 4-0

Impacted Regulations: N/A

**Recommendation:** Microbusiness licensees should be allowed to conduct offsite processing as one of their qualifying activities and use shared facilities for any of their activities.

### Staff Comments from BCC:

- Recognizing that there may be premises constraints due to local regulations, this recommendation seeks to allow for a microbusiness to utilize offsite processing as one of their qualifying activities, and they be able to use shared facilities for any of their activities. **The Bureau is unable to carry out this recommendation due to statutory limitations.** Specifically, Business and Professions Code section 26001, subdivision (ap) defines “premises” as the “designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted.”
- This subdivision also provides that premises shall be contiguous and shall only be occupied by one licensee. Allowing microbusinesses to be located in multiple locations **would be in direct conflict** with the statutory provision that premises be contiguous.

### **RECOMMENDATION #6: License for Non-Contiguous Premises**

Adopted by the Subcommittee on: 3-1-18

Vote: 4-0

Impacted Regulations: Cal. Code Regs., tit. 16, §§ 5014 (Fees); 5500-5506 (Microbusinesses)

**Recommendation:** Recognizing that microbusinesses frequently cannot operate at one contiguous location in large part because of local land use ordinances, and that it can be cost prohibitive for microbusinesses to obtain multiple licenses, an accessory license should be created to tie premises together beyond the simple geographic location, while ensuring that flow of the product maintains a single chain of custody.

### Staff Comments from BCC:

- Business and Professions Code section 26053, subdivision (d) provides that each applicant or licensee shall apply for, and if approved, shall obtain a separate license for each location where it engages in commercial cannabis activity. Recognizing that a license is required for each location or “premises,” this recommendation seeks to allow for a licensee to have a primary “microbusiness premises” and a new class of licenses for “accessory” microbusiness hubs. This would enable microbusinesses to have multiple licensed premises.
- **Creating a new class of accessory licenses would require the Bureau to reconfigure its license system which would have a significant fiscal impact.** The processing of these applications would also be more complex, as the Bureau would need to evaluate more than one premises per license. These impacts would require a review of licensing fees to determine if the fees established for microbusinesses currently would cover the Bureau’s increased costs related to reconfiguring its licensing system and the additional resources needed for reviewing multiple premises for one license.

**RECOMMENDATIONS RELATED TO REGULATORY CHANGES**

**RECOMMENDATION #1: Proper Identification Training**

Adopted by the Subcommittee on: 2-13-18

Vote: 5-0

Impacted Regulations: Cal. Code Regs., tit. 16, § 5402 (Retail Area) and § 5414 (Delivery)

**Recommendation:** The Bureau of Cannabis Control should include in its regulations an employee-training requirement on proper identification verification to prevent sales of cannabis and cannabis products to youth at the point of sale or upon the delivery of product.

**Staff Comments from BCC:**

- Section 26140 of the Business and Professions Code identifies a number of age restrictions designed to protect minors from accessing cannabis and cannabis products.
- This recommendation seeks to include a new regulation that would require training for employees at point of sale and delivery services regarding proper identification training to prevent youth access to cannabis and cannabis products.
- The Bureau **would need to submit a budget change proposal to the Department of Finance and receive approval for additional funding** to hire staff to develop a curriculum and conduct training.

**RECOMMENDATION #2: Compassionate Medical Cannabis**

Adopted by the Subcommittee on: 3-1-18

Vote: 5-0

Impacted Regulations: Cal. Code Regs., tit. 16, § 5014 (Fees)

**Recommendation:** All regulatory agencies should create a special state and local licensing processes for those providing free compassionate medical cannabis that is exempt from fees and taxes. This change should be incorporated in the emergency rules and be promulgated as soon as possible to implement this motion. The motion includes all noncommercial cannabis activity.

**Staff Comments from BCC:**

- The licensing authorities are required by Business and Professions Code 26055 to issue licenses to qualified applicants. The application requirements identified in the licensing entities' regulations reflect many of the application requirements outlined in the Business and Professions Code and/or have been deemed by the licensing authorities as necessary to effectively evaluate a complete application for licensure.
- Regarding the licensing authorities' fee considerations, Section 26180 of the Business and Professions Code requires each licensing authority to establish a scale of application, licensing, and renewal fees based on the cost of enforcing the division.
- **Reducing compassionate medical cannabis fees would require the Bureau to reexamine its fee structure in section 5014 of its regulations and may shift the fee burden to other licensees.** It may also conflict with fee scaling requirements outlined in section 26180 of the Business and Professions Code.
- **The licensing authorities cannot control how local agencies go about their approval process.**
- The taxes imposed on cannabis are contained in the Revenue and Taxation Code and the licensing authorities **cannot change statutory provisions.**

- As to the motion including all noncommercial cannabis activity, the licensing authorities are unable to regulate this activity. The Medicinal and Adult-use Regulation and Safety Act (MAUCRSA) **only provides for the regulation of commercial cannabis activity.**

### **RECOMMENDATION #3: Branded Vehicles**

Adopted by the Subcommittee on: 3-1-18

Vote: 5-0

Impacted Regulations: Cal. Code Regs., tit. 16, § 5040 (Advertising Placement)

**Recommendation:** The Bureau should study whether branded vehicles fall under existing advertising restrictions.

#### **Staff Comments from BCC:**

- “Advertisement” is defined as “any written or verbal statement, illustration, or depiction which is calculated to induce sales of cannabis or cannabis products, including any written, printed, graphic, or other material, billboard, sign, or other outdoor display, public transit card, or other periodical literature, publication, or in a radio or television broadcast, or any other media” in section 26150 of the Business and Professions Code. **Branded vehicles arguably fall within the definition of “advertisement” under the Medicinal and Adult-Use Cannabis Regulation and Safety Act.**

### **RECOMMENDATION #4: Health Claim Advertising**

Adopted by the Subcommittee on: 3-1-18

Vote: 3-0-2

Impacted Regulations:

**Recommendation:** Adult-use cannabis should not be allowed to make health claims in advertising.

#### **Staff Comments from BCC:**

- **This recommendation seeks to address unsubstantiated health claims in advertising, which is already addressed in the Medicinal and Adult-use Regulation and Safety Act (MAUCRSA).** Specifically, section 26151 of the Business and Professions Code requires all advertising to “be truthful and appropriately substantiated.” Furthermore, section 26152 of the Business and Professions Code prohibits a licensee from advertising or marketing in a manner that is “false or untrue in any material particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific, or technical matter, tends to create a misleading impression.” Finally, section 26154 of the Business and Professions Code prohibits a licensee from publishing or disseminating “advertising or marketing containing any health-related statement[s] that [are] untrue in any particular manner or tends to create a misleading impression as to the effects on health of cannabis consumption.”

### **RECOMMENDATION #5: Data Collection**

Adopted by the Subcommittee on: 2-13-18

Vote: 5-0

Impacted Regulations:

**Recommendation:** The Bureau of Cannabis Control should collect data and report yearly on youth and adult cannabis use and overuse; ER visits and treatment episodes; DUI and poison control calls related to cannabis.

### Staff Comments from BCC:

- This recommendation seeks to require the Bureau to collect certain data related to the consumption of cannabis and cannabis products. Currently, section 26190 of the Business and Professions Code requires each licensing authority, including the Bureau, to prepare and submit to the Legislature an annual report on the authority's activities. The report is largely designed to capture information related to commercial cannabis licensing and enforcement.
- The Bureau currently does not collect data on cannabis use and overuse, emergency room visits, treatment episodes, DUIs, and poison control calls and is not required to by statute. Moreover, it does not collect this information during the normal course of issuing commercial cannabis licenses and **would require additional staffing and/or resources** in order to implement this recommendation. Much of this information would be **contained in the records of entities other than the Bureau**.

## RECOMMENDATIONS REQUIRING STATUTORY CHANGES

### RECOMMENDATION #6: Advertising to Age Specific Audience

Adopted by the Subcommittee on: 2-13-18

Vote: 5-0

Impacted Regulations: Cal. Code Regs., tit. 16, § 5040 (Advertising Placement)

**Recommendation:** The Bureau of Cannabis Control should amend Title 16, California Code of Regulations, Section 5040(a) to read as follows: Any advertising or marketing placed in broadcast, cable, radio, print, and digital communication shall only be displayed where at least 85% of the audience is reasonable expected to be 21 years of age or older, as determined by reliable up-to-date audience composition data.

### Staff Comments from BCC:

- The percentage composition identified in this section is consistent with section 26151 of the Business and Professions Code. "advertising or marketing placed in broadcast, cable, radio, print, and digital communications shall only be displayed where at least 71.6 percent of the audience is reasonably expected to be 21 years of age or older, as determined by reliable up-to-date audience composition data." **The Bureau cannot change a statutory provision.**

### RECOMMENDATION #7: Compassionate Care Program

Adopted by the Subcommittee on: 3-1-18

Vote: 4-0-1

Impacted Regulations: N/A

**Recommendation:** The full advisory committee should recommend to seek a legislative fix for the compassionate care program.

### Staff Comments from BCC:

- Legislative power within the State of California is vested in the California legislature; the **licensing authorities do not have the ability to change current laws**. Pursuant to section 26013 of the Business and Professions Code, the licensing authorities are required to "make and prescribe reasonable rules and regulations as may be necessary to implement, administer and enforce their respective duties" under MAUCRSA.



## OTHER

### RECOMMENDATION #8: Youth Education and Prevention Programs

Adopted by the Subcommittee on: 2-13-18

Vote: 5-0

Impacted Regulations:

**Recommendation:** The Department of Public Health should designate staff and necessary resources to the education of youth and youth prevention programs relating to cannabis.

#### **Staff Comments from CDPH:**

- This is **outside the scope of the licensing authority's mandates**. CDPH is responsible for promulgating regulations to license and enforce cannabis manufacturers.
- In Proposition 64, Per Section 34019 (b) & (f) of the Revenue and Taxation Code: Sixty percent shall be deposited in the Youth Education, Prevention, Early Intervention and Treatment Account, and disbursed by the Controller to the State Department of Health Care Services for programs for youth that are designed to educate about and to prevent substance use disorders and to prevent harm from substance use. The State Department of Health Care Services shall enter into interagency agreements with the State Department of Public Health and the State Department of Education to implement and administer these programs. The programs shall emphasize accurate education, effective prevention, early intervention, school retention, and timely treatment services for youth, their families and caregivers.

### RECOMMENDATION #9: Advisory Committee

Adopted by the Subcommittee on: 2-13-18

Vote: 5-0

Impacted Regulations:

**Recommendation:** The Department of Public Health should designate/form an advisory committee that would help establish a more comprehensive program including prevention, early intervention and continuing of care.

#### **Staff Comments from CDPH:**

- This is **outside the scope of the licensing authority's mandates**. CDPH's manufactured cannabis licensing program is responsible for promulgating regulations to license and enforce cannabis manufacturers.

### RECOMMENDATION #10: Local Government Coordination

Adopted by the Subcommittee on: 3-1-18

Vote: 5-0

Impacted Regulations: N/A

**Recommendation:** All licensing authorities should cooperate and coordinate with local agencies and local governments to close unlicensed and unregulated cannabis businesses that make it difficult for licensed cannabis businesses to succeed.

#### **Staff Comments from BCC:**

- The licensing authorities currently share information with local agencies and local governments as permitted in response to a California Public Records Act request (Government Code section 6250 et seq.), as permitted by the Information Practices Act (Civil Code section 1798 et seq.), to another government agency as required by state or federal law, in response to a court or administrative order, a

subpoena, or a search warrant. **The licensing authorities are working cooperatively with local law enforcement on matters related to licensing and enforcement.**

**RECOMMENDATION #11: Multilingual Public Information Campaign**

Adopted by the Subcommittee on: 3-1-18

Vote: 5-0

Impacted Regulations: N/A

**Recommendation:** The three regulatory agencies should develop a culturally competent multilingual public information campaign about the means for lodging complaints about inaccuracy in advertising, particularly of health claims.

**Staff Comments from BCC:**

- The **licensing authorities have established a process** to submit complaints via online, phone hotline, or email. This process allows for the public to lodge complaints. The licensing authorities will continue see how they can improve the dissemination of information to their stakeholders.

## SUBCOMMITTEE ON RETAILERS

### RECOMMENDATIONS RELATED TO REGULATORY CHANGES

#### RECOMMENDATION #1: Methods of Delivery

Adopted by the Subcommittee on: 3-1-18

Vote: 3-0

Impacted Regulations: Cal. Code Regs., tit. 16, § 5403 (Hours of Operation), § 5415 (Delivery), § 5417 (Methods of Delivery), § 5418 (Cannabis Goods Carried During Delivery), and § 5421 (Delivery Route)

**Recommendation:** Clarify and simplify methods of delivery. Increase flexibility regarding vehicles and hours, consider increasing the value amounts to that can be carried at one time. Clarification on the delivery receipt that eliminates the need for an address instead uses the state license number on the delivery receipt. Flexibility in allowing local government to allow changes in hours of operation if they so choose.

#### **Staff Comments from BCC:**

- Currently, the Bureau **does not require** a specific type of vehicle for delivery as long as it is enclosed. The state requirements for delivery hours apply to all state licensees; however, a local jurisdiction may further limit the delivery hours beyond what the state has required.
- The Bureau determined the limits for the amount of cannabis and cannabis product that can be carried in a delivery vehicle based on information related to public safety and industry operations but **does have the authority to reconsider the limit**.
- Sales receipts must include the address pursuant to Business and Professions Code section 26161 and the licensing authorities **cannot change a statutory requirement**.

#### RECOMMENDATION #2: Hours of Operation

Adopted by the Subcommittee on: 3-1-18

Vote: 3-0

Impacted Regulations: Cal. Code Regs., tit. 16, § 5403 (Hours of Operation)

**Recommendation:** Restore local control over hours of operation, state can establish suggested operating hours however, local government can waive those hours.

#### **Staff Comments from BCC:**

- The state requirements for retailer hours apply to all state licensees; however, **a local jurisdiction may further limit the hours beyond what the state has required**.
- The regulation could be clarified that a local jurisdiction may further restrict hours. The Bureau does **have the authority** to change the hours of operation contained in its regulation.

#### RECOMMENDATION #3: Barriers to Entry

Adopted by the Subcommittee on: 3-1-18

Vote: 3-0

Impacted Regulations: Cal. Code Regs., tit. 16, § 5014 (Fees) and § 5308 (Insurance Requirements)

**Recommendation:** Reduce barriers to entry into the industry, including issues with taxation, insurance and other fees.

**Staff Comments from BCC:**

- Business and Professions Code section 26070 requires distributors to be insured, at a minimum set by the Bureau. The **statutory requirement for distributors to be insured may not be changed** by the Bureau.
- Taxes on cannabis are contained in the Revenue and Taxation Code which cannot be changed by regulation and the Bureau **does not have authority to adopt regulations related to taxes**.

**RECOMMENDATION #4: Waste**

Adopted by the Subcommittee on: 3-1-18

Vote: 3-0

Impacted Regulations: Cal. Code Regs., tit. 16, §§ 5054-5055 (Bureau); Section 8108 (CDFA); Section 40290 (CDPH)

**Recommendation:** Retailer should be allowed to haul or destroy waste that's generated on their property.

**Staff Comments from BCC:**

- Current regulations allow for a licensee to self-haul cannabis waste to one, or more, of the solid waste facilities, or to allow a waste hauler permitted by a local agency to do so. The regulations also provide for the disposal of waste on licensed premises, as long as it's within a secured waste receptacle or secured area.

**RECOMMENDATION #5: California Code of Regulations, Title 16, Section 5411**

Adopted by the Subcommittee on: 3-1-18

Vote: 3-0

Impacted Regulations: Cal. Code Regs., tit. 16, § 5411 (Free Cannabis Goods)

**Recommendation:** Regarding Section 5411 subsection B-1, strike language starting from "in possession of valid ID card" through the end of the sentence.

**Staff Comments from BCC:**

- The Bureau **only allows for free cannabis and cannabis products to medicinal patients**. The requirement for the possession of a valid ID card assists with ensuring that this restriction is followed and is consistent with the statute that allows for the waiver of taxes if a patient possesses a card.

**RECOMMENDATIONS REQUIRING STATUTORY CHANGES**

**RECOMMENDATION #6: A and M Licenses**

Adopted by the Subcommittee on: 3-1-18

Vote: 3-0

Impacted Regulations: Cal. Code Regs., tit. 16, § 5029 (Transition to Regulated Commercial Cannabis Market)

**Recommendation:** Retailers should be allowed to purchase product and not have to differentiate between A and M licenses.

**Staff Comments from BCC:**

- Business and Professions Code sections 26001, 26050, and 26140, set out specific requirements for conducting commercial cannabis activity, adhering to a system differentiating between designated adult-use cannabis goods and medicinal cannabis goods. Business and Professions Code section 26050

requires each license to be designated whether it is for adult-use or medicinal cannabis. The statutory definitions for “A-license” and “M-license” is specific to cannabis activity for those product types. The **licensing authorities cannot alter the statutory provision for A and M licenses.**

**RECOMMENDATION #7: Sampling**

Adopted by the Subcommittee on: 3-1-18

Vote: 3-0

Impacted Regulations: Cal. Code Regs., tit. 16, § 5411 (Free Cannabis Goods)

**Recommendation:** Establish greater flexibility on sampling within statute and regulations.

**Staff Comments from BCC:**

- Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) prohibits giving away cannabis or cannabis goods for business promotions or other commercial activity. The Bureau **does not have authority to change a statutory provision.**

**RECOMMENDATION #8: Product Liability Insurance**

Adopted by the Subcommittee on: 3-1-18

Vote: 3-0

Impacted Regulations: N/A

**Recommendation:** Product liability insurance should be applied to the manufacturer not the retailer within context of statute.

**Staff Comments from BCC:**

- The Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) does not require product liability insurance to be placed with any one party. To require this, **a statutory change would be needed.**

**OTHER**

**RECOMMENDATION #9: Banking System**

Adopted by the Subcommittee on: 3-1-18

Vote: 3-0

Impacted Regulations:

**Recommendation:** The state should continue to explore establishing a banking system for the California cannabis industry.

**Staff Comments from BCC:**

- **The licensing authorities do not have authority to regulate banking.**

**RECOMMENDATIONS RELATED TO REGULATORY CHANGES**

**RECOMMENDATION #1: Testing for Research and Development**

**Adopted by the Subcommittee on:** 2-13-18

**Vote:** 2-0

**Impacted Regulations:**

**Recommendation:** Regulations should allow for licensed laboratories to accept materials from any licensed entity that is part of the supply chain for research and development, without a requirement to report the results.

**Staff Comments from BCC:**

- Section 26100, subdivision (k) of the Business and Professions Code **does not prohibit a licensee** from performing testing on a licensee's premises for the purposes of quality assurance.

**RECOMMENDATION #2: Expiration Date**

**Adopted by the Subcommittee on:** 2-13-18

**Vote:** 2-0

**Impacted Regulations:** N/A

**Recommendation:** Regulations should clarify that the testing results are valid on a finished manufactured cannabis product until the expiration date of the finished product, as determined by the manufacturer. The expiration date must be supported by in-house or third-party data.

**Staff Comments from BCC:**

- Allowing for testing results to remain valid until the manufacturer-determined sell-by date **would not be in conflict** with any provisions in Medicinal and Adult-Use Cannabis Regulation and Safety Act.

**RECOMMENDATION #3: Standard Testing Analytical Methodology**

**Adopted by the Subcommittee on:** 2-13-18

**Vote:** 2-0

**Impacted Regulations:** Cal. Code Regs., § 5711 (Laboratory Analyses Standard Operating Procedures), § 5712 (Test Methods), and §5713 (Validation of Test Methods).

**Recommendation:** The Bureau should incorporate standard testing analytical methodology in final regulations.

**Staff Comments from BCC:**

- **Currently, there are no standard testing analytical methodologies for cannabis.** The Bureau would need to develop these methodologies on its own, and to ensure efficacy of the methodologies, would require its own testing laboratory. To create a testing laboratory, the Bureau would need to coordinate several time intensive processes including securing the appropriate additional budgetary resources, securing a laboratory location, purchasing and installing testing instruments, hiring staff and obtain ISO/IEC 17025 accreditation. **The Bureau estimates 36 months to complete all of the above through the appropriate control agencies.**

**RECOMMENDATION #4: Waste Disposal**

**Adopted by the Subcommittee on:** 2-13-18

**Vote:** 2-0

**Impacted Regulations:** Cal. Code Regs., tit. 16, §5054 (Destruction of Cannabis Products Prior to Disposal) and § 5055 (Cannabis Waste Management).

**Recommendation:** The Bureau should revisit cannabis waste disposal from testing laboratories.

**Staff Comments from BCC:**

- Issues related to cannabis waste are outlined in sections 5054 and 5055 of the Bureau’s regulations. Specifically, section 5054 provides an overview regarding the general requirements for the destruction of cannabis products prior to disposal. Recognizing that CalRecycle already regulates issues related to waste disposal, **section 5055 of the Bureau’s regulations provides general requirements for cannabis waste management** and requires all licensees to comply with the applicable waste management laws outlined in Division 30 of the Public Resources Code.

**RECOMMENDATIONS REQUIRING STATUTORY CHANGES**

**RECOMMENDATION #5: Testing by Individuals**

**Adopted by the Subcommittee on:** 2-13-18

**Vote:** 2-0

**Impacted Regulations:** N/A

**Recommendation:** Allow any adult to have a cannabis product tested at a licensed testing lab.

**Staff Comments from BCC:**

- **The Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) does not allow for individuals to test personal adult-use products.** Therefore, the Bureau is unable to allow for it in regulation. Section 26104, subdivision (d) of the Business and Professions Code provides that a testing laboratory may receive and test samples of cannabis or cannabis products from a qualified patient or primary caregiver only if the qualified patient or primary caregiver presents the qualified patient’s valid physician’s recommendation for cannabis for medicinal purposes. The Medicinal and Adult-Use Cannabis Regulation and Safety Act does not have a similar provision allowing individuals to test personal adult-use products.