



CALIFORNIA CANNABIS ADVISORY COMMITTEE

DRAFT: 2019 Annual Report

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ACKNOWLEDGEMENTS

The Cannabis Advisory Committee (CAC) would like to acknowledge and thank the following individuals for their leadership and commitment to the mission and work of the committee.

We are grateful for the valuable support we received from the state cannabis licensing authorities' staff, legal counsel, and the technical and stenographic team throughout the course of the year.

The Cannabis Advisory Committee benefited from the active participation from experts, local officials, business leaders, patient advocates, veteran groups, compassionate use collectives, industry-specific organizations, and members of the community. We would like to thank the individuals who attended the meetings, provided thoughtful public comment, and engaged with the work of the committee. We look forward to your continued participation to improve the industry.

Leadership

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TIMMEN CERMAK, MD, *Physician Representative*; Psychiatrist, California Society of Addiction Medicine; Chair of the Subcommittee on Public Health and Youth; Member of the Subcommittee on Enforcement; Member of the Committee on Universal Supply Chain Issues

MATT CLIFFORD, *Environmental Expert Representative*; California Water Project Attorney, Trout Unlimited; Member of the Subcommittee on Cultivators; Member of the Subcommittee on Microbusiness

BILL DOMBROWSKI, *Business Representative*; President and CEO, California Retailers Association; Chair of the Subcommittee on Retailers; Member of the Subcommittee on Distributors

JEFFREY P. FERRO, *Labor Organization Representative*; Director, Cannabis Workers Rising Executive Assistant to the Director of Organizing, United Food and Commercial Workers International Union; Chair of the Subcommittee on Manufacturers; Member of the Subcommittee on Cultivators

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BEVERLY YU, *Labor Organization Representative*; Policy Analyst, United Domestic Workers/American Federation of State, County and Municipal Employees Local 3930; Chair of the Subcommittee on Licensing Application; Member of the Subcommittee on Retailers; Member of the Committee on the Annual Public Report

To find more information, please visit the Bureau of Cannabis Control website:

<https://bcc.ca.gov/>

EXECUTIVE SUMMARY

In 1996, California was the first state in the union to legalize the use of medical cannabis under Proposition 215, the Compassionate Use Act. California established the Medical Marijuana Program (MMP) through Senate Bill 420 (Vasconcellos) which increased access to medical cannabis for qualified patients and primary caregivers and provided protections from prosecution for the possession and cultivation of medical cannabis. Subsequently, the cannabis industry in California experienced a period of rapid expansion along with the emergence of compassionate use programs to meet the needs of chronically-ill patients.

Nearly twenty years after the passage of the Compassionate Use Act, the California State Legislature in 2015 established the Medical Cannabis Regulation and Safety Act (MCRSA) through a series of bills – Assembly Bill 243 (Wood), Assembly Bill 266 (Bonta, Cooley, Jones-Sawyer, Lackey, and Wood), and Senate Bill 643 (McGuire) to create a statewide framework to regulate and tax medical cannabis.

In November 2016, California voters approved Proposition 64 which enacted the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), permitting adults 21 years of age and over to possess and grow specified amounts of marijuana for recreational use.

In June 2017, the California State Legislature passed budget trailer bill, Senate Bill 94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) to integrate MCRSA with AUMA into a consolidated system for the regulation, licensing, taxation, and enforcement for both medicinal and adult -use commercial cannabis activities.

Under MAUCRSA, the Bureau of Cannabis Control (Bureau) is the lead agency. The Bureau is charged with licensing, regulation, and enforcement of the following types of commercial cannabis businesses: distributors, retailers, microbusinesses, temporary cannabis events, and testing laboratories. The Manufactured Cannabis Safety Branch, a division of the California Department of Public Health (CDPH), is responsible for regulating and licensing manufacturers. CalCannabis Cultivation Licensing, a division of the California Department of Food and Agriculture (CDFA), is responsible for licensing cultivators and implementing the Track-and-Trace system.

Currently comprised of twenty-two appointed members from different sectors to represent the diverse backgrounds of California and the cannabis industry, the CAC is charged with advising the licensing authorities in the development of “standards and regulations... including best practices and guidelines that protect public health and safety while ensuring a regulated environment for commercial cannabis activity that does not impose such barriers so as to perpetuate, rather than reduce and eliminate, the illicit market for cannabis.”ⁱ

The CAC began its work in November 2017 holding ten meetings statewide in its inaugural year. The CAC is charged with publishing an annual report on its activities including the recommendations the committee made to the licensing authorities and whether those recommendations were implemented.

Per legislative mandate, on January 1, 2018, the state began issuing licenses for commercial cannabis activity. Additionally, January 1, 2018, two new cannabis taxes went into effect: a cultivation tax on all harvested cannabis that enters the commercial market and a 15 percent excise tax on the purchase of cannabis and cannabis products. At the January 18, 2018 meeting, the CAC voted to establish ten subcommittees to discuss and develop recommendations for the state cannabis licensing authorities’ regulations on topics within their subcommittee’s issue area.

The subcommittees were designated as follows: Cultivators, Distributors, Enforcement, Equity, Licensing Application, Manufacturers, Microbusiness, Retailers, and Testing Laboratories.

Given the substantial scope of its charge and given the ongoing need for further action to address a range of cannabis related issues by the State Legislature and Congress, the committee worked to take a meaningful look at pressing industry challenges and develop recommendations for solutions to the greatest extent possible, consistent with its statutory purpose.

We hope this inaugural report provides insight into our work within an evolving regulatory environment and serves as a resource to show the range of issues and options to inform the public and policymakers alike.

DRAFT

BACKGROUND

Though cannabis remains illegal under U.S. federal law, many states have enacted varying degrees of legalization. In 2018, 62% of Americans report supporting cannabis legalization, double of what it was in 2000 (31%).ⁱⁱ According to the National Conference of State Legislatures, more than thirty-one (31) states, more than half, – plus the District of Columbia, Guam and Puerto Rico – have legalized cannabis for medical purposes.ⁱⁱⁱ Nine states plus the District of Columbia have legalized cannabis for adult-use purposes.

On October 2018, Canada became the second country in the world to allow for legalized recreational cannabis. Canada's entry into the market will undoubtedly have marked impacts on California's nascent cannabis industry. The total cannabis market in Canada, including medical, illegal, and legal recreational products, is expected to generate up to \$7.17 billion in sales in 2019.^{iv} California's overall legal cannabis market projected to grow with retail revenue (excluding state excise and sales taxes) estimated at \$5 billion. The state's market is projected to produce between 1.55 - 1.69 million pounds in all segments by 2018.^v Many in the industry believe in the need to preserve the rich cultural heritage and unique product branding that is unique to a variety of well-known California cultivation regions, akin to other unique regional products protected under internationally recognized Appellation of Origin programs.

California faces inherent challenges to regulating an industry that has not been federally decriminalized and has only been newly regulated in other states.^{vi} The challenge before us is two-fold. First, converting an established industry that had not been comprehensively regulated by the state to a regulatory framework mandated by MAUCRSA. Although MAUCRSA provides guidance on the macro issues, much of the implementation specifics and clarification of terms were left to the discretion of the licensing authorities.

Second, ensuring that the regulations do not create high compliance costs for legitimate California business relative to the costs and risks involved in remaining in the illicit drug trade. For perspective, the Bureau's Standardized Regulatory Impact Analysis (SRIA) prepared in April 2018 found that the proposed regulations, compared to no regulation baseline alternative, would add approximately \$408 in compliance costs per pound of marketable dried flower.^{vii} Most of the added cost is attributable to cannabis testing with other direct quantifiable costs attributed to general regulatory compliance.

This report covers over seventy subcommittee recommendations, forty of which were adopted by the CAC. The remaining subcommittee recommendations either failed to be adopted by the CAC or were not brought before the CAC due to a declaration by the responsible licensing authority that the recommendation would require statutory changes. Within those subcommittee recommendations that were either not adopted or not addressed by the CAC, a portion of these subcommittee recommendations were implemented, either in part or fully by the licensing authority.

All subcommittee recommendations are summarized below in three clearly defined sections:

- Subcommittee Recommendations Adopted by the CAC;
- Subcommittee Recommendations Tabled by The CAC Due to Requiring Statutory Changes; and
- Subcommittee Recommendations That Failed to Be Adopted by the CAC.

SUBCOMMITTEE RECOMMENDATIONS ADOPTED BY THE CAC

Subcommittee recommendations fall into ten issue areas as summarized below. This section of the report summarizes the purpose of the regulations within each subcommittee’s purview, describes subcommittee recommendation(s) adopted by the CAC, and identifies the related regulatory section(s) or Initial Statement of Reason section(s) relevant to the adopted recommendation. At the time of the draft report, proposed regulations refer to the newly modified text released on October 19, 2018 and assumes implementation as drafted.

SUBCOMMITTEE ON CULTIVATORS

Under the proposed regulations commercial cannabis cultivators may be eligible to license existing cultivation sites and/or establish new cultivation sites as commercial cannabis cultivation licensees. The proposed regulations also provide new protections to commercial California cannabis cultivators from state prosecution while safeguarding the environment through implementation of environmental protection measures and enforcement of existing environmental protection laws

The subcommittee on cultivators adopted a total of eleven recommendations. CDFA’s staff determined that five of the recommendations would require regulatory changes and six would require statutory changes. The subcommittee chair brought a total of five recommendations forward to the CAC for adoption. All five of these recommendations were adopted by the CAC and sent forward to the three regulating agencies for consideration. CDFA deemed one of the five committee recommendations to ‘already be allowed’. The remaining four committee recommendations have not been adopted by the licensing authority.

Generator Hour Meters (Recommendation #1) - Amend Section 8306(d) to allow after-market non-resettable hour meters be installed, if feasible.

Implementation Status: Not Adopted. CDFA stated that this recommendation was already allowed therefore no language change occurred.

Outdoor Cultivation Definition (Recommendation #2) - 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. Recommendation #2 was amended to the following: “The definition of outdoor cultivation should allow the use of light deprivation techniques”

Implementation Status: Not Adopted.

Transfer Between A & M Licenses (Recommendation #6) - Recognizing that the existing system of keeping Adult Use & Medicinal Use separate place 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.

Implementation Status: Adopted. This recommendation was addressed by allowing cultivators to sell cannabis to adult-use licensees and medical-use licenses without being required to establish separate and distinct cultivation areas. See §40175. License Constraints. & §5032 Commercial Cannabis Activity for details.

Compassionate Use Programs (Recommendation #7) - Language should be developed to create a cultivation-based tax incentive for products being set aside for compassionate use programs. CDFA declared this to require a statutory change.

Implementation Status: Not Adopted. CDFA determined that implementation of this recommendation would require statutory changes.

Self-Transport Distribution (Recommendation #11) - Create a mechanism for cultivator(s) to conduct self-transport distribution of their own product to a centralized processing facility, manufacturing facility, distributor or a laboratory for pre-testing, without the same requirements of the existing transportation license – including Bureau regulation sections 5044 and 5047 – by either amending the existing transportation distribution license or creating a new license type. CDFA declared this to require a statutory change.

Implementation Status: Partially adopted. See §5315. Distributor Transport Only License (g) for details.

SUBCOMMITTEE ON DISTRIBUTORS

Distributors play a pivotal role in the commercial cannabis supply chain. Ensuring a seamless transition from the cultivation and manufacturing of the cannabis goods through the distribution process is key to a well-regulated market. The subcommittee took into consideration the following goals of the regulations on distribution, (1) to ensure that commercial cannabis goods are properly stored, handled, packaged, and tested, (2) ensure commercial cannabis goods are safely and securely transported between licensees, and (3) ensure distributors keep and maintain records that are adequate to effectively track and trace commercial cannabis goods to prevent entry of untested commercial cannabis goods into the legal market.

In response, the subcommittee developed recommendations to allow distributors to conduct business with other licensees more effectively to facilitate distribution. The full CAC adopted four of the five subcommittee recommendations listed below. The licensing authorities have amended the regulations in a manner that addresses two of the CAC's recommendations.

Selling Samples (Recommendation #1) - The Bureau should address how, if at all, licensees may provide samples for a nominal fee, both for B to B (Business to Business) and B to C (Business to Consumer) situations.

Implementation Status: Not Adopted. Per Bureau comments, the lead agency does not require cannabis goods to be sold at a specific price therefore no language change occurred.

Additional Label (Recommendation #2) - 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.

Implementation Status: Adopted. Please see the following regulatory sections for further details - § 5303. Packaging, Labeling, and Rolling, (a); § 5307. Quality-Assurance Review; & § 5307.1 Quality-Assurance Review for Labeling Cannabinoids and Terpenoids

Storage Only Center License (Recommendation #3) - 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.

Implementation Status: Not Adopted. See § 5301. Storage Services for regulatory details.

Transition Period Extension (Recommendation #4) - Extend the transition period from 6 months to 12 months to allow transactions between A and M licenses.

Implementation Status: Adopted. See § 5032. Commercial Cannabis Activity, subsection (c) for language addressing transactions between M-designation or A-designation licenses.

SUBCOMMITTEE ON ENFORCEMENT

Under the MAUCRSA, each licensing authority has the power to create, issue, deny, renew, suspend, revoke, place on probation with terms and conditions, or otherwise discipline a licensee for any acts or omissions constituting grounds for disciplinary action. The subcommittee worked to ensure strong and fair enforcement provisions to improve public safety in our communities and to ensure that there is a balance between allowing for the feasible operation of cannabis businesses while deterring illegal and criminal activities.

The CAC adopted five of the fifteen subcommittee recommendations listed below. Of the five recommendations adopted by the CAC, the licensing authorities have amended regulatory language regarding four of the recommendations. The Bureau also amended regulatory language regarding three of the subcommittee recommendations not adopted by the CAC.

Enforcement Authority (Recommendation #1) - 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.

Implementation Status: Not Adopted. The Bureau determined that this recommendation would require statutory changes. However, the Bureau has provided additional clarification in the advertising section regarding the content of licensee advertisements.

Clarify Difference Between Citations and Orders of Abatement and Clarify References (Recommendations #2) - The Bureau 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

Implementation Status: Adopted. See § 5802. Citations; Orders of Abatement; Administrative Fines for details.

Advertising (Recommendation #6) - 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.

Implementation Status: Implementation of the Proposed Permanent Regulations would result in Partial Adoption. The first part of the recommendation was adopted via § 5040. Advertising Placement & 5415.1. Deliveries Facilitated by Technology Platforms

Public Records Act Requests (Recommendation #8) - The Bureau should include language in regard 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 request act.

Implementation Status: Not Adopted

Labor Standards (Recommendation #9) - 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.

This recommendation was amended to state: “all licensing authorities are required to include violations of labor standards as part of the licensing process and enforcement, which shall include revocation of the license.”

Implementation Status: Adopted via language changes found in § 5002. Annual License Application Requirements, § 5035. Notification of Criminal Acts, Civil Judgments, Violations of Labor Standards, and Revocation of a Local License, Permit, or Other Authorization After Licensure & § 5600. Cannabis Event Organizer License

SUBCOMMITTEE ON EQUITY

As of July 2018, four California cities have moved to establish equity programs and identify common barriers to entry into the cannabis industry. The equity programs are the result of studies and reports that analyze in part, the disproportionate impacts of cannabis law enforcement on disadvantaged communities.

The equity subcommittee sought to continue to address racial and economic disparities in California’s diverse population and redress decades of punitive criminal justice policies through community reinvestment, workforce development, public awareness and education, data collection and accountability, and increase access to capital for equity applicants.

The CAC adopted all eight of the subcommittee’s proposed recommendations. To date, the licensing authorities have partially adopted one of the recommendations adopted by the CAC.

State Level Equity Licensing Program (Recommendation #1) - 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.

Implementation Status: Not Adopted

Earmarks, Fee Waivers, and Loans (Recommendation #2) - 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.

Implementation Status: Not Adopted. The Bureau determined that this recommendation would require statutory changes.

Fee Installments and Deferrals (Recommendation #3) - 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.

Implementation Status: Not Adopted

Research Support (Recommendation #4) - 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.

Implementation Status: Adopted. The Bureau’s regulations specify the requirements for applying for, and receiving, research funding for public universities. See §5900 Eligibility

Access to Property and Premises (Recommendation #5) - 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.

Implementation Status: Not Adopted.

Data Collection (Recommendation #6) - 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.

Implementation Status: Not Adopted

Funding of a Social Equity Program (Recommendation #7) - The three licensing authorities 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.

Implementation Status: Not Adopted

Local Program Models (Recommendation #8) - 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.

Implementation Status: Not Adopted

SUBCOMMITTEE ON RETAILERS

Retailers provide commercial cannabis goods to customers who are the end users of the product in the supply chain. The proposed retailer regulations are designed with three main goals for holding a state license to operate a commercial cannabis retail premises and are necessary as retailers engage directly with the consumer and the public. First, the regulations are designed to ensure that retailers follow the MAUCRSA supply chain requirements. Second, the regulations are designed to protect public health and safety. Third, the proposed regulations are designed to limit the risk of diversion.

The CAC adopted one of the nine subcommittee recommendations listed below. The licensing authorities partially adopted the one recommendation. Two of the subcommittee

recommendations, which were not adopted by the CAC, were partially adopted by the licensing authorities.

Methods of Delivery (Recommendation #1) - Clarify and simplify methods of delivery. Increase flexibility regarding vehicles and hours, consider increasing the value amounts 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.

Implementation Status: Partially Adopted. This recommendation addressed multiple concerns expressed by the public regarding ‘methods of delivery’. As such, this recommendation involved language changes in multiple sections of the regulations. Below, is a detailed description regarding the portions of this recommendation adopted by the licensing authority.

- ‘*Clarify and simplify methods of delivery...*’ – Adopted via language changes found in § 5415. Delivery Employees, § 5415.1. Deliveries Facilitated by Technology Platforms (a)(1), § 5416. Delivery to a Physical Address & § 5421. Delivery Route
- ‘*Increase Flexibility regarding vehicle and hour’s*’ - Adopted via language changes found in § 5403. Hours of Operation & § 5417. Delivery Vehicle Requirements
- ‘*...increasing the value amounts that can be carried*’ – Adopted via language changes found in
- ‘*...eliminates the need for an address instead uses the state license number on the delivery receipt.*’ – Not Adopted
- ‘*...allowing local government to allow changes in hours of operation if they so choose.*’ – Not Adopted

SUBCOMMITTEE ON PUBLIC HEALTH AND YOUTH

The MAUCRSA mandates that the protection of public health be amongst the highest priority for all licensing authorities. As such, the subcommittee worked to limit youth access to cannabis, encouraging education to workers to prevent improper sales to minors and generally ensure the health and safety of the public. The subcommittee also considered the importance of increasing access for compassionate medical cannabis and data collection to inform the public and policymakers going forward.

The full committee adopted all seven of the subcommittee recommendations listed below. The licensing authorities partially adopted one of the committee’s recommendations.

Proper Identification Training (Recommendation #1) - The Bureau 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.

Implementation Status: Not Adopted

Compassionate Medical Cannabis (Recommendation #2) - 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.

Implementation Status: Not Adopted.

Branded Vehicles (Recommendation #3) - The Bureau should study whether branded vehicles fall under advertising restrictions.

Implementation Status: Not Adopted. The Bureau determined that this recommendation is not a regulatory recommendation. The Bureau has and continues to evaluate what constitutes an advertisement and is subject to the advertising restrictions.

Health Claim Advertising (Recommendation #4) - Adult-use cannabis should not be allowed to make health claims in advertising

Implementation Status: Not Adopted. However, statute clearly prohibits a licensee from publishing or disseminating any advertising containing a health-related statement that is untrue or creates a misleading impression as to the effects of cannabis consumption on health conditions. As such, the Bureau has included this in the disciplinary guidelines.

Data Collection (Recommendation #5) - The Bureau 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.

Implementation Status: Not Adopted.

Advertising to Age Specific Audience (Recommendation #6) - The Bureau 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.

Implementation Status: Not Adopted. The Bureau determined that this recommendation would require a statutory change.

Compassionate Care Program (Recommendation #7) - The full advisory committee should recommend to seek a legislative fix for the compassionate care program.

Implementation Status: Not Adopted.

SUBCOMMITTEE ON TESTING LABORATORIES

The MAUCRSA mandates that protection of the public be the highest priority for all licensing authorities. Under the Act, the Bureau is required to develop procedures for ensuring that all cannabis goods are tested by a licensed testing laboratory prior to distribution to a retailer. The goal of testing is to ensure the cannabis goods sold to consumers are safe for human consumption and that consumers receive accurate information regarding the cannabis goods they consume in the spirit of consumer protection.

Objective information and science should guide the regulation of testing laboratories to achieve the general-public health and safety and consumer protection goals. The subcommittee recommendations stress the need to rely on objective and consistent available scientific and technical information and flexibility to allow for research and development.

The CAC adopted four of the five subcommittee recommendations. The Bureau staff determined that four of the recommendations would require regulatory changes and one would require statutory change. The Bureau partially adopted one of the four committee recommendations.

Testing for Research and Development (Recommendation #1) - 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.

Implementation Status: Not Adopted. Currently no changes have been made to § 5710. Laboratory Receipt of Samples Obtained from a Distributor or Microbusiness, (a), which clarifies that licensed laboratories may, "...accept and analyze a sample from a licensed distributor or licensed microbusiness authorized to engage in distribution for the required testing under section 5714 of this division only if there is an accompanying COC form for the sample."

Expiration Date (Recommendation #2) - 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.

Implementation Status: Not Adopted. "See subsections (b) and (e) of § 5307. Quality-Assurance Review, as well as subsection (b) of § 5406. Cannabis Goods for Sale, for regulatory language regarding expiration dates and the verification by in-house or third-party data.

Standard Testing Analytical Methodology (Recommendation #3) - The Bureau should incorporate standard testing analytical methodology in final regulations. This recommendation was modified to state: "The Bureau should define acceptable reference standards in the final regulations"

Implementation Status: Not Adopted. Please see § 5700. Definitions, subsection (r) "Certified reference material", for regulatory definition of reference standards. Additional information on this topic can be found in § 5713. Validation of Test Methods, subsection (c) (2).

Waste Disposal (Recommendation #4) - The Bureau should revisit cannabis waste disposal from testing laboratories.

Implementation Status: Partially Adopted. The Bureau revisited the sections on cannabis waste disposal in the draft proposed permanent regulations. See § 5054. Destruction of Cannabis Goods Prior to Disposal for strike thru and new draft language.

SUBCOMMITTEE ON LICENSING APPLICATION

Under Business and Professions Code section 26053, all commercial cannabis activity must be conducted between licensees. In recognizing that many commercial cannabis businesses were already in operation for medicinal cannabis prior to January 1, 2018, the legislature created a temporary license with fewer requirements than an annual license so that licensing authorities could quickly process an application to allow the businesses in operation to continue operations or allowing them to shut down for a very brief time while the application was processed. Temporary licenses can be issued until January 1, 2019.

The MAUCRSA requires an applicant to provide certain information to the licensing authorities for processing an annual license. The regulations identify additional required information, clarification on special terms, prohibitions, and conditions for licensure to allow commercial cannabis businesses to legally engage in the marketplace.

The subcommittee on licensing application sought to address the concerns regarding a small number of large consolidated businesses dominating California’s cannabis market by increasing transparency in the licensing application, providing financial relief to lower barriers to entry, encouraging market stability, and protecting the health and safety of workers. The CAC adopted four of the six subcommittee recommendations. The Bureau adopted three of the CAC’s recommendations. The Bureau approved two subcommittee recommendations not approved by the committee.

Disclosure of Owners (Recommendation #2) - 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.

Implementation Status: Adopted. This recommendation was adopted via regulatory language found in § 5002. Annual License Application Requirements, § 5003. Designation of Owner, and § 5600. Cannabis Event Organizer License

Annual Fees (Recommendation #4) - The licensing authorities should evaluate the amount of annual fees, especially fees paid by people with disabilities and military veterans.

Implementation Status: Partial Adoption. This recommendation has been partially addressed via draft language found in § 5014. Fees., of the draft proposed permanent regulations

A and M Licenses and Transition Period (Recommendation #5) - 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).

Implementation Status: Adopted. Please see § 5032. Commercial Cannabis Activity, subsection (c) for details.

Use of Preparers (Recommendation #6) - Allow the use of preparers to assist applicant in preparing applications.

Implementation Status: Not Adopted. The Bureau determined that the owner must submit the application and verify its accuracy, however, the owner is not prohibited from seeking guidance and assistance from experts.

SUBCOMMITTEE ON MANUFACTURERS

Manufacturing” or “manufacturing operation” means all aspects of the extraction process, infusion process, and packaging and labeling processes, including processing, preparing, holding, and storing of cannabis products. Manufacturing also includes any processing, preparing, holding, or storing of components and ingredients. Manufacturers produce nearly all non-flower products including edibles, oils, tinctures, etc. The proposed regulations will establish the licensing scheme for manufacturers of cannabis products, set minimum standards for sanitary manufacturing practices; and establish packaging and labeling standards for manufactured cannabis products.^{viii}

The Subcommittee of Manufacturers met twice, passing four subcommittee recommendations. The CAC adopted all four of manufacturing subcommittee recommendations. CDPH has partially adopted three of the four recommendations. The fourth committee recommendation has not been adopted at this time.

Illustrative Guide (Recommendation #1) - Create an illustrative guide for packaging and labeling broken down by the components of packaging and labeling.

Implementation Status: Partially Adopted. The CDPH issued a non-illustrative guide as well as an FAQ related to this recommendation in June of 2018. These materials can be found online at:

<https://www.cdph.ca.gov/Programs/CEH/DFDCS/MCSB/Pages/PackagingandLabelingFAQs.aspx>

Clarification on Packaging (Recommendation #2) - Provide clarification on the concepts of primary packaging, secondary packaging, and child-resistant packaging (with respect to primary v. secondary) and labeling.

Implementation Status: Partially Adopted. The CDPH issued a non-illustrative guide as well as an FAQ related to this recommendation in June of 2018. These materials can be found online at:

<https://www.cdph.ca.gov/Programs/CEH/DFDCS/MCSB/Pages/PackagingandLabelingFAQs.aspx>

Child-Resistant Packaging (Recommendation #3) - Clarify how and where child-resistant packing should be used.

Implementation Status: Partial Adoption. The questions regarding how and where child-resistant packaging will be required and the timeline associated with child-resistant packaging is still unclear as of the drafting this report. The licensing authorities have partially adopted this recommendation as reflected in § 5303 of the Bureau's regulations. Packaging, and Labeling, and Rolling of the draft proposed permanent regulations. Additional information has been provided on the licensing authority's website:

<https://www.cdph.ca.gov/Programs/CEH/DFDCS/MCSB/Pages/PackagingandLabelingFAQs.aspx>

Dosage Limits (Recommendation #4) - 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.

Implementation Status: Not Adopted.

SUBCOMMITTEE ON MICROBUSINESS

The microbusiness license allows the licensee to engage in multiple types of licensed commercial cannabis activities under a single license. Microbusiness licensees must qualify for, and conduct, a minimum of three out of four allowed commercial cannabis activities including:

- the commercial cultivation of cannabis on an area less than 10,000 square feet;
- the ability to act as a licensed distributor;
- the ability to manufacture commercial cannabis as a Type 6 manufacturer; and

-
- the ability to sell commercial cannabis as a retailer.

Established by the voter initiative, AUMA, the microbusiness license ultimately ended up replacing the 10A license type established by the MCRSA in 2015. During the reconciliation of the MCRSA and AUMA statutes, the 10A license type, which allowed for vertical integration of pre-existing vertically integrated operations, was stricken from statute and the microbusiness license was clarified.

The subcommittee met two times during the months of February and March, passing six recommendations to bring forth to the CAC for adoption. Of the six subcommittee recommendations, the CAC adopted one recommendation while a second recommendation failed adoption. The remaining four subcommittee recommendations were tabled due to requiring statutory changes to implement.

It is important to note that the public commented on the microbusiness license type during every CAC meeting. At the August CAC meeting, the committee agreed to reconvene the microbusiness subcommittee, which met for a third time in September 2018, before the Eureka CAC meeting. During the September 2018 subcommittee meeting, two additional recommendations were passed and are mentioned below in the next section.

License Tiers, Incentives for Compassionate Use and Rural Operators, and Fee Schedule Cap (Recommendation #2) - 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.

Implementation Status: Not Adopted.

Recommendation Passed During the September 2018 Subcommittee Meeting (Not Yet Heard By The CAC)

TABLED SUBCOMMITTEE RECOMMENDATIONS REQUIRING STATUTORY AMENDMENT(S)

Several subcommittee recommendations were tabled upon determination by the licensing authorities that the recommendation would require a statutory change to address. To address these recommendations the CAC agreed to compile the tabled recommendations into a letter to be penned by Chair Rahn and Vice Chair Todd, and presented on behalf of the CAC to the California legislature.

Within those subcommittee recommendations that were tabled, common themes emerged highlighting issues that pose challenges to all aspects of the supply chain, including consumers. As such, the subcommittees heard repeated public comment, in turn passing subcommittee recommendations, related the following common topics, including but not limited to:

- Remove bifurcation of adult-use and medical-use licenses.
- The urgent need to establish a medical compassion program for patients unable to afford the cost and taxation associated with the newly regulated commercial medical cannabis marketplace.
- Ease requirement that each license occupy separate contiguous premises.
- Reduce the barriers to entry for all license types, with emphasis on the needs of small businesses to access the microbusiness license.
- Establish a pathway for commercial cannabis licenses to operate in a manner that is analogous to California's 'home occupation' guidelines.
- Clarify the Cannabis Waste sections of regulations to allow for the remediation and sale of cannabis waste.

This section captures all tabled subcommittee recommendations and provides further insight into the implementation status of each recommendation.

SUBCOMMITTEE ON CULTIVATORS

Composting and Waste (Recommendation #3) - 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.

Implementation Status: Adopted.

Cottage Licenses (Recommendation #4) - Add square footage (or 2,500 square feet or 5,000 square feet) to specialty and cottage licenses, respectively, if possible and if not direct staff to pursue a legislative fix to allow for the change.

Implementation Status: Not Adopted.

Transport by Cultivators (Recommendation #5) – 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.

Implementation Status: Not Adopted.

Harvest Batch (Recommendation #8) – 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.

Implementation Status: Not Adopted.

Lab Testing System (Recommendation #9) – 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.

Implementation Status: Not Adopted.

Requirements for Nurseries (Recommendation #10) – 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 see 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.

Implementation Status: Not Adopted.

SUBCOMMITTEE ON LABORATORY TESTING

Testing by Individuals (Recommendation #5) - Allow any adult to have a cannabis product tested at a licensed testing lab.

Implementation Status: Not Adopted.

SUBCOMMITTEE ON DISTRIBUTORS

Multiple Distribution Hubs (Recommendation #5) - The Bureau should consider allowing multiple distribution hubs without requiring separate licenses for each location.

Implementation Status: Not adopted.

SUBCOMMITTEE ON MICROBUSINESS

Farm Stand Sales (Recommendation #3) - Microbusinesses should be allowed to utilize farm stand sales as well as farm direct sales model (such as CSA's) without a brick and mortar store to satisfy the retail component of the license.

Implementation Status: Not Adopted.

Single Premise (Recommendation #4) - All microbusiness activities should not have to take place on a single premise.

Implementation Status: Not Adopted.

Qualifying Activities (Recommendation #5) - Microbusiness licensees should be allowed to conduct offsite processing as one of their qualifying activities and use shared facilities for any of their activities.

Implementation Status: Not Adopted.

License for Non-Contiguous Premises (Recommendation #6) - 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 locations, while ensuring that flow of the product maintains a single chain of custody.

Implementation Status: Not Adopted.

SUBCOMMITTEE ON MICROBUSINESS SEPTEMBER 2018

At the time of drafting this report, the September subcommittee recommendations had not been put before the CAC, nor had the meeting minutes from the third subcommittee been published. This subcommittee recommendations below are from transcripts and have not yet been approved by the CAC as official meeting minutes. **This section will need additional work before the January 1, 2019 publication.**

Recommendation #1. - Microbusiness licensees should be allowed to conduct nursery type operations to fulfill the cultivation requirement, manufacture products in a licensed shared kitchen and/or as an infusion licensee to fulfill the manufacturing requirement; and be allowed to conduct sales at licensed temporary events to fulfill the retail requirement.

Implementation Status: Partially Adopted. The Bureau has stated that nursery licenses qualify as cultivation so long as the nursery does not exceed 10,000 square feet. Additionally, the Bureau has amended language to include licensed infusion as a license type option to fulfill the manufacturing activity requirement.

Recommendation #2 - Recommend to legislature that, in order to fulfill the intent of the microbusiness definition of the statute, which is to provide better access to the market for small cultivators, that the legislature amend Business and Professions Code section 26053, subdivision (d) to provide an exception to the requirement of a separate license for each location for microbusiness activities.

Implementation Status: Not Adopted.

Recommendation #3 – Recommend that the Bureau consider removing the prohibition on activities allowed within the home, so long as the activities that the applicant is choosing to conduct are activities commonly allowed under cottage business licenses in the state.

Implementation Status: Not Adopted.

SUBCOMMITTEE RECOMMENDATIONS (NOT ADOPTED BY THE FULL COMMITTEE)

During the CAC's review of subcommittee recommendations, several recommendations failed to be adopted by the CAC. However, a some of these recommendations were adopted either in full, or partially, by the responsible licensing authority. Subcommittee recommendations, not adopted by the full committee, are listed below, including details about each recommendations implementation status.

SUBCOMMITTEE ON ENFORCEMENT

Security Personnel Standards (Recommendation #4) - All licensing authorities should consider establishing standards for security personnel for cultivation, manufacturing and distribution.

Implementation Status: Partial Adoption. See § 5045. Security Personnel of the draft Permanent Regulation for additional security personnel requirements for retail and distribution licensees.

Health Related Claims (Recommendation #5) - The CDPH 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

Implementation Status: Not Adopted.

Unlicensed Collectives (Recommendation #7) - 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.

Implementation Status: Not Adopted.

Waste (Recommendation #10) - To be consistent with the protection for 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.

Implementation Status: Partial Adoption. All three licensing authorities significantly revised waste requirements in drafting the proposed permanent regulations. However, at the time of writing this report, the regulatory requirements for cannabis waste have not been finalized.

Online Advertising (Recommendation #11) – Look into the possibility of having an unlicensed businesses' online advertising and marketing removed.

Implementation Status: Partial Adoption. See regulatory sections § 5415.1. Deliveries Facilitated by Technology Platforms and § 5040. Advertising Placement

Local Government Communication on Licensees (Recommendation #12) - 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.

Implementation Status: Partial Adoption. See § 5002. Annual License Application Requirements, subsection (20) (M) & § 5035. Notification of Criminal Acts, Civil Judgments, Violations of Labor Standards, and Revocation of a Local License, Permit, or Other Authorization After Licensure of the draft proposed permanent regulations for details.

[Local Government Communication on Violations \(Recommendation #13\)](#) - 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.

Implementation Status: Not Adopted.

[Hazard Identification Standards \(Recommendation #14\)](#) - 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.

Implementation Status: Not Adopted.

[Education for First Responders \(Recommendation #15\)](#) - Licensing agencies should quickly start to address the educational needs of first responders related to cannabis.

Implementation Status: Not Adopted.

SUBCOMMITTEE ON LICENSING APPLICATION

[Labor Standards \(Recommendation #1\)](#) - Applicants should be required to submit a plan for compliance with labor standards and disclose previous labor law violations.

Implementation Status: Partial Adoption. While the regulations do not require an applicant to submit a plan for compliance with labor standards, the draft proposed permanent regulations do require disclosure of previous labor law violations. See § 5002. Annual License Application Requirements, subsection (c) (20) (M) & § 5035. Notification of Criminal Acts, Civil Judgments, Violations of Labor Standards, and Revocation of a Local License, Permit, or Other Authorization After Licensure for more details.

[Information from Corporation Owners \(Recommendation #3\)](#) - 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 § 5002, subsection (c) (20).

Implementation Status: Adopted. The draft proposed permanent regulations address this recommendation via language changes to § 5002. Annual License Application Requirements, § 5004. Financial Interest in a Commercial Cannabis Business & § 5600. Cannabis Event Organizer License

SUBCOMMITTEE ON RETAILERS

[Hours of Operation \(Recommendation #2\)](#) - Restore local control over hours of operation, state can establish suggested operating hours however, local government can waive those hours.

Implementation Status: Not Adopted.

Barriers to Entry (Recommendation #3) - Reduce barriers to entry into the industry, including issues with taxation, insurance and other fees.

Implementation Status: Partial Adoption. Please see § 5014. Fees for details.

Waste (Recommendation #4) - Retailer should be allowed to haul or destroy waste that's generated on their property.

Implementation Status: Partial Adoption, via elimination of § 5055. Cannabis Waste Management

California Code of Regulations, Title 16, Section 5411 (Recommendation #5) - Regarding § 5411 subsection B-1, strike language starting from "in possession of valid ID card" through the end of the sentence.

Implementation Status: Not Adopted.

A and M Licenses (Recommendation #6) - Retailers should be allowed to purchase product and not have to differentiate between A and M licenses.

Implementation Status: Adopted.

Sampling (Recommendation #7) - Establish greater flexibility on sampling within statute and regulations.

Implementation Status: Not Adopted.

Product Liability Insurance (Recommendation #8) - Product liability insurance should be applied to the manufacturer not the retailer within context of statute.

Implementation Status: Not Adopted.

Banking System (Recommendation #9) - The state should continue to explore establishing a banking system for the California cannabis industry.

Implementation Status: Not Adopted.

SUBCOMMITTEE ON MICROBUSINESS

Security Requirements (Recommendation #1) - Security requirements for microbusinesses should be determined by the local jurisdiction and the regulations should not be unduly burdensome to small businesses and microbusinesses.

Implementation Status: While this recommendation passed unanimously at the subcommittee level, it failed to pass adoption by the CAC.

INFORMATIONAL PRESENTATIONS

In addition to establishing the subcommittees referenced earlier in this report, the CAC was fortunate to receive several educational presentations designed to provide the committee and the public with additional information on specific topics as requested by the CAC.

Over the course of the 2018 CAC meetings, the following educational presentations were provided to the committee:

“CALIFORNIA ENVIRONMENTAL QUALITY ACT PROCESS OVERVIEW” –

Presented by Michael Stevenson, Horizon Water and Environment, LLC; Richard Parrott, Director CalCannabis Cultivation Licensing Division; Miren Klein, Assistant Deputy Director, Center for Environmental Health

“CANNABIS ENFORCEMENT FROM THE LOCAL PERSPECTIVE” – Presented by Joe Devlin, Chief of Cannabis Policy and Enforcement, City of Sacramento & Jonathan Feldman, Legislative Advocate, California Police Chiefs Association

“OVERVIEW OF CALIFORNIA’S CANNABIS TAXES” – Presented by Nicolas Maduros, Director, California Department of Tax and Fee Administration

“CALIFORNIA CANNABIS TRACK-AND-TRACE SYSTEM: OVERVIEW & IMPLEMENTATION UPDATE” - Presented by John Halligan, Branch Chief, Compliance and Enforcement Branch, CalCannabis

UNRESOLVED ISSUES

In the process of helping the state develop a more efficient and effective regulatory framework, the committee identified a wide range of common challenges plaguing the cannabis industry. Ultimately, we will need continued advocacy in the legislative, regulatory, and budget process at the state and federal level informed by the industry perspective along with available research and data collection. For intended changes in public policy, we will need to build a strong working relationship with policymakers, local jurisdictions, law enforcement, and labor organizations.

(Insert Committee on Universal Supply Chain Issues Draft Here)

CONCLUSION

The industry is off the ground and many are deeply and personally invested. California is in a unique position to finalize regulations that do not take a one size fits all approach. The industry has flourished for over two decades and it would be a disservice to not learn from the experience of history. We heard concerns from businesses, including operators who have traditionally operated within their homes seeking a pathway to licensure, the need for Compassionate Use Programs to facilitate the access for safe medicine to veterans, chronically-ill patients, and low-income communities, and the improvements needed to better promote health and public safety especially for youth and workers in the industry. We have yet to address development of a state equity program, banking, and issues with onerous taxation.

The policies we choose to implement for this industry reflect the state's values. As a committee, we recognize that our work remains unfinished and hope this report serves as an important step in a long-term project to create a more sustainable industry.

ⁱ Business and Professions Code 26014

ⁱⁱ Pew Research Survey, <http://www.pewresearch.org/fact-tank/2018/10/08/americans-support-marijuana-legalization/>

ⁱⁱⁱ <http://www.ncsl.org/research/health/state-medical-marijuana-laws.aspx>

^{iv} <https://www2.deloitte.com/content/dam/Deloitte/ca/Documents/consulting/ca-cannabis-2018-report-en.PDF>

^v “Economic Impact Study of the Cannabis Sector in the Greater Sacramento Area” (University of the Pacific 2016)

^{vi} BUREAU OF CANNABIS CONTROL CALIFORNIA CODE OF REGULATIONS TITLE 16, DIVISION 42 MEDICINAL AND ADULT-USE CANNABIS REGULATION INITIAL STATEMENT OF REASONS

^{vii} SRIA, pg. 286 of 567

^{viii} *DPH-17-004 Medical Cannabis Manufacturing INITIAL STATEMENT OF REASONS* (Rep.). (n.d.).