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Rodriguez at hearing)

PC 8/22/13
#9.a
137 pages

Proposed Ordinance for Medical Cannabis Distribution Facilities in El Dorado County

Recommendations:

- 1: Allow Medical Cannabis Cooperatives (defined under the Attorney General Guidelines of 2008) to operate in El Dorado County and to strike the proposed ban.
- 2: Follow the AG (Attorney General) Guidelines set forth August 2008.
- 3: Cooperatives/Collectives should apply for a Business License for the purpose of paying these proposed local taxes and identifying compliant Cooperatives/Collectives. A portion of these proceeds should be deferred to the El Dorado School District to use at their discretion.
- 4: Cooperatives/Collectives may form Corporations; have Board members, Management, Managers, Employees and or Volunteers
- 5: No Board Member, Management, Manager, Employee and or Volunteer shall have any violent or drug felonies. Board Members and Management shall undergo background checks.
- 6: Cooperative/Collectives propose a 3.75% County tax on Cannabis transactions for the purpose of increasing revenue for enforcement of Ordinance for Cannabis Cooperatives/Collectives.
- 7: Cooperative/Collectives shall obtain a business License in El Dorado County for the purposes of Law/Code Enforcement having a clear understanding what Cooperatives/Collectives are legal and to be able to pay taxes to the county as required on time.

8: Cooperatives/Collectives shall maintain a Sellers Permit with the California Board of Equalization AND pay taxes on time.

9: Cooperatives/Collectives shall retain a Licensed CPA firm to keep a copy of all transactional documents and assure correct taxes are tabulated.

10: All Patients entering a Medical Cannabis establishment must be a legal resident of California and possess a valid California Driver's License or a California I.D.

11: All Patients must have an Original Doctor's Recommendation for Medical Cannabis. No one under the age of 18 is to be permitted inside under any circumstances without a Parent present and Doctor's Recommendation. All recommendations will involve personal contact with Doctors office for verification and must be an original. (no copies will be allowed)

12: All Patients wanting to join Cooperative/ Collective shall be required to complete a written membership agreement to avoid diversion of Cannabis for non-medical use. Any patient found to be diverting medication will be permanently banned from the Cooperative/Collective. Any patient not possessing proper documentation shall be refused entry, no exceptions. Patients must agree to not use Cannabis for other than medicinal purposes.

13: Cooperatives/Collectives shall verify that Doctor's writing Recommendations are in good standing with the State Medical Board.

14: Cooperatives/Collectives shall not profit from the dispensing of Medical Cannabis. They shall operate as legal non-profit cooperatives in good standing under the law with discretion.

15: Cooperatives/Collectives shall have in place Community Benefits program defining their programs to give back to the community.

16: Cooperatives/Collectives shall support science based educational programs for youth on the dangers of drug abuse/misuse.

17: Cooperatives/Collectives shall have on file with the Sheriff's office a floor plan of the establishment with all security measures clearly outlined for Law Enforcement in the areas of operational security, employee/volunteer specific policies, training, sample written policies, patient security, transactional security, 3rd party contractor security. Law Enforcement/Code Enforcement may do compliance checks every 6 months and as needed. Security measures are to be in place at all times to ensure the safety of Patients, Staff, Volunteers and to assure neighboring businesses and homes are not negatively affected by nuisance activity or crime.

18: Cooperatives/Collectives shall have a Fire Protection Plan and follow compliance with fire regulations set forth for any business in El Dorado County. All exits are to be clearly marked with a lighted exit signs, fire extinguishers be properly mounted and maintained.

19: Cooperatives/Collectives should be required to carry a Certificate of Liability Insurance.

20: Cooperatives/Collectives in existence in El Dorado County should be grandfathered in and be exempt from any permit/license fees. As long as in compliance with the Regulations enacted and should be allowed before any outside entity, first opportunity to open satellite facilities as deemed necessary and will be subject to permitting/licensing fees. Any new Cooperatives/Collectives applying for permit/license to operate in

El Dorado County should be required to pay all permitting/licensing fees. (to be determined)

21: Cooperatives/Collectives shall have a written Business Plan and Mission Statement.

22: Cooperatives/Collectives shall have an Environmental Mitigation Plan regarding proper disposal of waste materials. Recycling program will be mandatory.

23: Cooperatives/Collectives shall have a Product Safety program that includes testing of all Cannabis and medicinal products. Testing results shall be clearly posted. All Medicinal Cannabis shall be free of pests mold and pathogens. All Medicinal Cannabis is to be grown organically with the Cooperatives/Collectives doing spot checks for compliance.

24: Cooperatives/Collectives will acquire, possess and distribute only lawfully cultivated Cannabis obtained from patients as their excess medication within their Cooperative/Collective.

25: Cooperatives/Collectives shall follow all Labor and Employment practices under California Law. Cooperatives/Collectives may operate with a volunteer staff comprised of their Patients.

26: Distribution and Sales to Non-Members is strictly prohibited.

27: Cooperatives/Collectives shall cooperate with Law Enforcement at all times. As long as all Laws and Ordinances are followed the Cooperative/Collective should be respected the same as any other upstanding business in the community.

28: Cooperatives/Collectives shall schedule an open house with Law/Code Enforcement Officers once a year and as needed to educate on Medicinal Cannabis and how these establishments are managed.

29: Cooperatives/Collectives already in operation in El Dorado County that are grandfathered in shall have 180 days from the date Ordinance is signed to be in compliance and present proof of compliance.

30: Medical Cannabis may not be smoked (a) where smoking is prohibited by law, (b) at or within 1000 feet of a school, recreation center or youth center (unless medical use occurs within a residence), (c) on a school bus, or (d) in a moving motor vehicle or boat.

California Proposition 215, the Medical Marijuana Initiative (1996)

From Ballotpedia

(Redirected from California Proposition 215 (1996))

California Proposition 215, also known as the **Medical Use of Marijuana Initiative** or the **Compassionate Use Act**, was on the November 5, 1996 general election ballot in California as an initiated state statute, where it was **approved**.

The passage of Proposition 215 is considered a significant victory for medical marijuana. It exempts patients and defined caregivers who possess or cultivate marijuana for medical treatment recommended by a physician from criminal laws which otherwise prohibit

possession or cultivation of marijuana. Because of Proposition 215, California is one of the fourteen states that allow marijuana for medical uses.^[1]

In 2008, twelve years after Proposition 215 passed, the medical marijuana group "Americans for Safe Access" estimated that California had more than 200,000 doctor-qualified medical cannabis users.

In May 2009, the U.S. Supreme Court declined to hear an appeal of a California state appellate ruling from 2008 that upheld Proposition 215 and concluded that California can decide whether to eliminate its own criminal penalties for medical marijuana regardless of federal law. The appellate ruling came about because of lawsuit against Proposition 215 filed by San Diego and San Bernardino counties. These counties objected to Proposition 215 on the grounds that it requires them, in their view, to condone drug use that is illegal under federal law. They also challenged a law that requires counties to issue identification cards to medical marijuana patients so these patients can identify themselves to law enforcement officials as legally entitled to possess small amounts of marijuana.^[2]

Proposition 215 also led to the lawsuit, *People v. Kelly*. This case was decided in January 2010 by the California Supreme Court, which ruled that the state of California cannot, through the legislative process, impose a state limit on medical marijuana that is more restrictive than what is allowed under Proposition 215. *People v. Kelly* helps define laws governing the initiative process in California especially as it relates to legislative tampering.^[3]

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Voting on Marijuana



Ballot Measures

By state

By year

Not on ballot

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Election results

Proposition 215		
Yes	5,382,915	55.58%
No	4,301,960	44.42%

Text of measure

Summary

The official ballot summary that appeared on the ballot said:

- Exempts patients and defined caregivers who possess or cultivate marijuana for medical treatment recommended by a physician from criminal laws which otherwise prohibit possession or cultivation of marijuana.
- Provides physicians who recommend use of marijuana for medical treatment shall not be punished or denied any right or privilege.
- Declares that measure not be construed to supersede prohibitions of conduct endangering others or to condone diversion of marijuana for non-medical purposes.
- Contains severability clause.



Fiscal impact

The California Legislative Analyst's Office provided an estimate of net state and local government fiscal impact for Proposition 215. That estimate was:

- Adoption of this measure would probably have no significant fiscal impact on state and local governments."

Aftermath of Prop 215

Medical Marijuana Program Act

In 2004, the California State Legislature the Medical Marijuana Program Act (MMPA). MMPA was intended to clarify which specific practices with regard to medical marijuana were to be considered lawful in the state. The MMPA:

- Established a voluntary statewide identification card system;
- Set limits on the amount of medical marijuana each cardholder could possess;
- Laid out rules for the cultivation of medical marijuana by collectives and cooperatives.

Garden Grove v. Kha

In 2007, the California Fourth Appellate District ruled against the City of Garden Grove, and in favor of a medical marijuana patient (Felix Kha), saying that "it is not the job of the local police to enforce the federal drug laws."

The case resulted from the seizure of medical marijuana from Kha by the Garden Grove police force in June 2005.

Kha was pulled over by the Garden Grove Police Department on June 10, 2005, and cited for possession of marijuana, despite Kha showing the officers proper documentation of his status as a medical marijuana patient.

The charge against Kha was subsequently dismissed, with the Superior Court of Orange County issuing an order to Garden Grove that the city must return to Kha 8 grams of medical marijuana that was seized from him by the police. The police, backed by the city of Garden Grove, refused to return Kha's medicine and the city appealed.

In the 2007 state court decision, the court ruled that the federal Controlled Substance Act of 1970, enacted to combat recreational drug abuse and trafficking, did not intend to regulate the practice of medicine, "a task that falls within the traditional powers of the states."

Before the California Fourth District Court of Appeal issued its decision last year, California Attorney General Jerry Brown filed a "friend of the court" brief on behalf of Kha's right to possess his medicine. The justices noted they were convinced by Brown's arguments that local agencies are bound by state laws in approaching medical marijuana.

The California Supreme Court denied a case review in March 2008, and Garden Grove then went to the U.S. Supreme Court, which turned the case down in late November 2008.

Medical marijuana advocates called the decision a huge victory in clarifying law enforcement's obligation to uphold state law – in this case, Proposition 215.^[4]

Federal laws

Some cities in California have adopted ordinances that say that businesses operating within city limits must comply with federal law as well as state and local laws as a way to keep marijuana-growing businesses out of their cities. For example, the city of Lindsay passed a medical marijuana ordinance in January 2006 that says, "Legal Use of Land: No use of land, under this title, shall be permitted within the City Limits if such use shall be in violation of any local, state or federal law."^[1]

Sutter County

Sutter County was the 57th of California's 58 counties to authorize the issuance of medical marijuana identification cards under Proposition 215. The county board of supervisors planned in April 2010 to take this step, which is required to bring the county into compliance with state law.^[5]

Colusa County, as of June 2010, was the one remaining California county that had not adopted a medical marijuana ID program.^[5]

See also

- California 1996 ballot propositions
- Marijuana dispensaries in California

External links

- Official Voter Guide to Proposition 215 (<http://vote96.sos.ca.gov/Vote96/html/BP/215.htm>)
- Full text of Proposition 215 (<http://vote96.sos.ca.gov/Vote96/html/BP/215text.htm>)
- November 5, 1996 California election results (<http://www.sos.ca.gov/elections/sov/1996-general/1996-general-sov.pdf>) (PDF)
- PDF of the paper version of the November 5, 1996 Ballot Propositions Voter Guide (http://library.uchastings.edu/ballot_pdf/1996g.pdf)
- Discussion of *People v. Kelly* (<http://safeaccessnow.org/blog/?p=104>)
- Discussion of *People v. Kelly* (http://www.ukiahdailyjournal.com/ci_10236755)
- Medical marijuana guidelines promulgated in August 2008 (http://ag.ca.gov/cms_attachments/press/pdfs/n1601_medicalmarijuanaguidelines.pdf)

References

- ↑ ^{1.0} ^{1.1} *Foothills Sun-Gazette*, "Cities spotlight laws regulating medical pot spots", October 21, 2009 (<http://www.thesungazette.com/articles/2009/10/21/news/news02.txt>)
- ↑ *San Francisco Chronicle*, "Solano to allow medical marijuana ID cards", June 24, 2009 (<http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2009/06/24/BA1V18CK66.DTL>)
- ↑ *Sacramento Bee*, "Court removes state limit on medical marijuana possession", January 22, 2010 (<http://www.sacbee.com/topstories/story/2480898.html>)
- ↑ *Lake County News*, "US Supreme Court turns down review of medical marijuana case", December 2, 2008 (<http://lakeconews.com/content/view/6522/764/>)
- ↑ ^{5.0} ^{5.1} *Appeal Democrat*, "Sutter County supervisors consider medical pot ID cards", April 3, 2010 (<http://www.appeal-democrat.com/news/county-93504-state-law.html>)

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title=California_Proposition_215,_the_Medical_Marijuana_Initiative_(1996)&oldid=1433595"

Categories: California 1996 ballot measures | Marijuana, California | Marijuana, 1996

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Proposition 215: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure adds a section to the Health and Safety Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Section 11362.5 is added to the Health and Safety Code, to read:

11362.5. (a) This section shall be known and may be cited as the Compassionate Use Act of 1996.

(b)(1) The people of the State of California hereby find and declare that the purposes of the Compassionate Use Act of 1996 are as follows:

(A) To ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief.

(B) To ensure that patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction.

(C) To encourage the federal and state governments to implement a plan to provide for the safe and affordable distribution of marijuana to all patients in medical need of marijuana.

(2) Nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, nor to condone the diversion of marijuana for nonmedical purposes.

(c) Notwithstanding any other provision of law, no physician in this state shall be punished, or denied any right or privilege, for having recommended marijuana to a patient for medical purposes.

(d) Section 11357, relating to the possession of marijuana, and Section 11358, relating to the cultivation of marijuana, shall not apply to a patient, or to a patient's primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician.

(e) For the purposes of this section, "primary caregiver" means the individual designated by the person exempted under this section who has consistently assumed responsibility for the housing, health, or safety of that person.

SEC. 2. If any provision of this measure or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of the measure that can be given effect without the invalid provision or application, and to this end the provisions of this measure are severable.

Analysis of Proposition 215

by the Legislative Analyst

BACKGROUND

Under current state law, it is a crime to grow or possess marijuana, regardless of whether the marijuana is used to ease pain or other symptoms associated with illness. Criminal penalties vary, depending on the amount of marijuana involved. It is also a crime to transport, import into the state, sell, or give away marijuana.

Licensed physicians and certain other health care providers routinely prescribe drugs for medical purposes, including relieving pain and easing symptoms accompanying illness. These drugs are dispensed by pharmacists. Both the physician and pharmacist are required to keep written records of the prescriptions.

PROPOSAL

This measure amends state law to allow persons to grow or possess marijuana for medical use when recommended by a physician. The measure provides for the use of marijuana when a physician has determined that the person's health would benefit from its use in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or "any other illness for which marijuana provides relief." The physician's recommendation may be oral or written. No prescriptions or other record-keeping is required by the measure.

The measure also allows caregivers to grow and possess marijuana for a person for whom the marijuana is recommended. The measure states that no physician shall be punished for having recommended marijuana for medical purposes. Furthermore, the measure specifies that it is not intended to overrule any law that prohibits the use of marijuana for *nonmedical* purposes.

FISCAL EFFECT

Because the measure specifies that growing and possessing marijuana is restricted to medical uses when recommended by a physician, and does not change other legal prohibitions on marijuana, this measure would probably have no significant state or local fiscal effect.

California Senate Bill 420 (HS 11362.7)

Medical Marijuana Implementation

- [Benefits of state law change are retroactive](#)
- [Read the text of SB 420](#)
- [Read the amended text passed in June, 2004](#)
- [Analysis: A green light for cities and counties to adopt more equitable guidelines](#)
- [Published statement of legislative intent from the authors of SB 420](#)
- [Effect on charges of HS 11359, possession with intent to distribute](#)
- [Collectives and charges of HS 11359, possession with intent to distribute](#)
- [Learn the status of current California legislation](#)

AUTHOR(S): Vasconcellos (Principal co-author: Assembly Member Leno).

Safe Access Now sees many beneficial sections in the bill, including that it empowers communities to adopt scientific guidelines. However, SAN is concerned that the unrealistic floor amounts in section HS 11362.77 are being misconstrued and treated as a *de facto* ceiling in most counties, despite the CA Supreme Court's Wright Decision that they are a floor. This makes it more important than ever that local people work to get their own cities and counties to adopt the reasonable SAN garden guidelines. The author's letter of legislative intent supports increasing those floor amounts to make life easier for patients and caregivers.

Proposition 215 now HS11362.5, the voter approved law, did not protect people from arrest, it gives them a defense in Court. The CA Supreme Court in the Mower Decision interpreted that to mean any amount reasonably related to the patients medical need. That standard still applies and supercedes SB 420.

Bill Status: SB 420

Passed 9/20/03, signed by Governor 10/13/2003, effective January 1, 2004

TITLE: An act to add Article 2.5 (commencing with Section 11362.7) to Chapter 6 of Division 10 of the Health and Safety Code, relating to controlled substances.

[Bill history](#) / [Full text](#) / [Letter of Legislative Intent](#)

Overview and analysis of SB 420

SB 420 was a compromise that considered much input from patients and reformers. It clears up certain implementation issues surrounding Prop 215 (HS11362.5) and formulates a voluntary system to protect patients from arrest. It sets biased and unrealistic standards as the default baseline for protection, but also empowers localities to adopt scientific local medical marijuana guidelines.

SB 420 positive effects:

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- SB 420 recognizes all patient's rights as embodied in Prop 215 as summarized in SB420 Section 1(a)(1)
- Participation in the voluntary ID program is not a requirement for full protection under Prop 215 11362.71(f)
- It asserts medical marijuana as a matter of states rights 420 (1)(e)
- It extends the power of recommendation/approval to osteopaths 11362.7(a)
- It allows agencies to provide medical marijuana to qualified patients 11362.7(d)(2)
- It allows caregivers to have more than one patient in the same county 11362.7(d)(3)
- It allows caregivers to have one out-of-county patient 11362.7(d)(3)
- It creates a protective and completely voluntary 1-year photo ID program for participating patients and/or caregivers. 11362.71(a)(1)
- It provides "around the clock" validation of participation in the program when police confront a patient or caregiver 11362.71(a)(2)
- It allows non-governmental agencies to process the cards 11362.71(c)
- It promises confidentiality of records 11362.71(d)(1)
- It stops arrests -- not just prosecution -- of card-holding individuals for possession, transportation, delivery or cultivation up to a very minimal level of 6 mature plants per patient and 8 oz of bud or conversion (that could arguably be hash or hash oil, or equivalent amounts of foods and tinctures, which have a lot of liquid weight) 11362.71(e)
- It includes the right for an individual to appeal if rejected for a patient ID card 11362.74 (b)
- It gives Medi-Cal patients a 50% fee discount 11362.755(a)
- It allows transportation and processing (HS 11360) 11362.765 (b)
- It reduces the risk of a patient being charged with intent to sell (11359) maintaining a place where cannabis is produced, provided or used (HS11366, 11366.5, 11570) 11362.765(b)
- It allows reimbursement for a caregiver's material and labor 11362.765(c)
- It empowers physicians to grant exemptions for quantities 11362.77 (b)
- It allows communities to adopt more realistic amounts but does not allow them to go below the "floor" amounts 11362.77(c)
- It codifies the medical use of dried cannabis flowers rather than leaf 11362.77(d)
- It opens the door for us to work with the AG to amend these levels upward 11362.77(e)
- It recognizes collectives and coop gardens, without regard to county boundaries Public Comment

- It requires police to comply with these provisions [11362.78](#)
- It recognizes that inmates can use medical marijuana [11362.785\(c\)](#)
- It exempts patients in their homes from the penalties associated with using cannabis within 1000 feet of a school [11362.79\(b\)](#)
- It enables parolees, defendants and probates to retain full access to MMJ [11362.795](#)
- It criminalizes breach of confidentiality (eg., gives patient info to the feds) [11362.81\(b\)\(4\)](#)

SB 420 negative effects:

- SB420 creates a wholly voluntary card system that may become "de facto" mandatory by legitimizing some patients at a higher level than others (i.e., if you have a card you get more respect)
- It sets a wholly inadequate default guideline limit of 8 ounces of dry bud and 6 mature OR 12 immature plants, which is not scientific or reasonable. While it allows counties to increase these amounts, again these may become "de facto" limits that counties adopt rather than use scientific SAN guidelines.

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Legislative Intent Regarding SB 420

September 10, 2003

The Honorable John Burton
 President pro Tempore of the Senate
 State Capitol, Room 205, Sacramento, CA 95814

Re: Legislative Intent Regarding SB 420 (as amended September 4, 2003)

JOHN --

In order to clarify the Legislature's intent in enacting Senate Bill 420, I respectfully request that this letter be published in the Senate Daily Journal.

Fully recognizing that **Proposition 215 cannot be amended by the Legislature**, we have resisted all efforts to make the new identification card system created by SB 420 mandatory – and at least two times SB 420 contains specific language declaring our intent that **this program is wholly voluntary**.

In addition, **the guidelines in SB 420 establish permissible amounts that are intended to be the threshold, and not a ceiling**.

Furthermore, SB 420 specifically **allows localities with higher possession or cultivation amounts to retain them, and other local jurisdictions to establish new guidelines to exceed what has been set forth** in this bill. No jurisdiction may establish amounts lower than those set forth in SB 420.

Altogether, we believe that our final version of SB 420 is the very best we could hope to get enacted into law and that it provides (pursuant to the California voters' will in enacting Proposition 215) broad protection to tens of thousands of ill Californians without jeopardizing any ill Californians.

Thank you for allowing us to clarify our legislative intent regarding SB 420.

Sincerely,

JOHN VASCONCELLOS / MARK LENO
Senator, 13th District / Assemblyman, 13th District

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BILL NUMBER: SB 420 -- BILL TEXT

INTRODUCED FEBRUARY 20, 2003 BY Senator Vasconcellos

PASSED SENATE SEPTEMBER 11, 2003

PASSED ASSEMBLY SEPTEMBER 10, 2003

(Principal coauthor: Assembly Member Leno. Coauthors: Assembly Members Goldberg, Hancock, and Koretz)

An act to add Article 2.5 (commencing with Section 11362.7) to Chapter 6 of Division 10 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 420, Vasconcellos. Medical marijuana.

Existing law, the Compassionate Use Act of 1996, prohibits any physician from being punished, or denied any right or privilege, for having recommended marijuana to a patient for medical purposes. The act prohibits the provisions of law making unlawful the possession or cultivation of marijuana from applying to a patient, or to a patient's primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician.

This bill would require the State Department of Health Services to establish and maintain a voluntary program for the issuance of identification cards to qualified patients and would establish procedures under which a qualified patient with an identification card may use marijuana for medical purposes. The bill would specify the department's duties in this regard, including developing related protocols and forms, and establishing application and renewal fees for the program.

The bill would impose various duties upon county health departments relating to the issuance of identification cards, thus creating a state-mandated local program.

The bill would create various crimes related to the identification card program, thus imposing a state-mandated

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local program. This bill would authorize the Attorney General to set forth and clarify details concerning possession and cultivation limits, and other regulations, as specified. The bill would also authorize the Attorney General to recommend modifications to the possession or cultivation limits set forth in the bill. The bill would require the Attorney General to develop and adopt guidelines to ensure the security and nondiversion of marijuana grown for medical use, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that no reimbursement is required by this act for specified reasons.

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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) On November 6, 1996, the people of the State of California enacted the Compassionate Use Act of 1996 (hereafter the act), codified in Section 11362.5 of the Health and Safety Code, in order to allow seriously ill residents of the state, who have the oral or written approval or recommendation of a physician, to use marijuana for medical purposes without fear of criminal liability under Sections [11357](#) and [11358](#) of the Health and Safety Code.

(2) However, reports from across the state have revealed problems and uncertainties in the act that have impeded the ability of law enforcement officers to enforce its provisions as the voters intended and, therefore, have prevented qualified patients and designated primary caregivers from obtaining the protections afforded by the act.

(3) Furthermore, the enactment of this law, as well as other recent legislation dealing with pain control, demonstrates that more information is needed to assess the number of individuals across the state who are suffering from serious medical conditions that are not being adequately alleviated through the use of conventional medications.

(4) In addition, the act called upon the state and the federal government to develop a plan for the safe and affordable distribution of marijuana to all patients in medical need thereof.

(b) It is the intent of the Legislature, therefore, to do all of the following:

(1) Clarify the scope of the application of the act and facilitate the prompt identification of qualified patients and their designated primary caregivers in order to avoid unnecessary arrest and prosecution of these individuals and provide needed guidance to law enforcement officers.

(2) Promote uniform and consistent application of the act among the counties within the state.

(3) Enhance the access of patients and caregivers to medical marijuana through collective, cooperative cultivation projects.

(c) It is also the intent of the Legislature to address additional issues that were not included within the act, and that must be resolved in order to promote the fair and orderly implementation of the act.

(d) The Legislature further finds and declares both of the following:

(1) A state identification card program will further the goals outlined in this section.

(2) With respect to individuals, the identification system established pursuant to this act must be wholly voluntary, and a patient entitled to the protections of Section 11362.5 of the Health and Safety Code need not possess an identification card in order to claim the protections afforded by that section.

(e) The Legislature further finds and declares that it enacts this act pursuant to the powers reserved to the State of California and its people under the Tenth Amendment to the United States Constitution.

SEC. 2. Article 2.5 (commencing with Section 11362.7) is added to Chapter 6 of Division 10 of the Health and Safety Code, to read:

Article 2.5. Medical Marijuana Program

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11362.7. For purposes of this article, the following definitions shall apply:

(a) "Attending physician" means an individual who possesses a license in good standing to practice medicine or osteopathy issued by the Medical Board of California or the Osteopathic Medical Board of California and who has taken responsibility for an aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient and who has conducted a medical examination of that patient before recording in the patient's medical record the physician's assessment of whether the patient has a serious medical condition and whether the medical use of marijuana is appropriate.

(b) "Department" means the State Department of Health Services.

(c) "Person with an identification card" means an individual who is a qualified patient who has applied for and received a valid identification card pursuant to this article.

(d) "Primary caregiver" means the individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person, and may include any of the following:

(1) In any case in which a qualified patient or person with an identification card receives medical care or supportive services, or both, from a clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2, a health care facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 (commencing with Section 1568.01) of Division 2, a residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569) of Division 2, a hospice, or a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2, the owner or operator, or no more

than three employees who are designated by the owner or operator, of the clinic, facility, hospice, or home health agency, if designated as a primary caregiver by that qualified patient or person with an identification card.

(2) An individual who has been designated as a primary caregiver by more than one qualified patient or person with an identification card, if every qualified patient or person with an identification card who has designated that individual as a primary caregiver resides in the same city or county as the primary caregiver.

(3) An individual who has been designated as a primary caregiver by a qualified patient or person with an identification card who resides in a city or county other than that of the primary caregiver, if the individual has not been designated as a primary caregiver by any other qualified patient or person with an identification card.

(e) A primary caregiver shall be at least 18 years of age, unless the primary caregiver is the parent of a minor child who is a qualified patient or a person with an identification card or the primary caregiver is a person otherwise entitled to make medical decisions under state law pursuant to Sections 6922, 7002, 7050, or 7120 of the Family Code.

(f) "Qualified patient" means a person who is entitled to the protections of Section 11362.5, but who does not have an identification card issued pursuant to this article.

(g) "Identification card" means a document issued by the State Department of Health Services that document identifies a person authorized to engage in the medical use of marijuana and the person's designated primary caregiver, if any.

(h) "Serious medical condition" means all of the following medical conditions:

- (1) Acquired immune deficiency syndrome (AIDS).
- (2) Anorexia.
- (3) Arthritis.
- (4) Cachexia.
- (5) Cancer.
- (6) Chronic pain.
- (7) Glaucoma.
- (8) Migraine.
- (9) Persistent muscle spasms, including, but not limited to, spasms associated with multiple sclerosis.
- (10) Seizures, including, but not limited to, seizures associated with epilepsy.

(11) Severe nausea.

(12) Any other chronic or persistent medical symptom that either:

(A) Substantially limits the ability of the person to conduct one or more major life activities as defined in the Americans with Disabilities Act of 1990 (Public Law 101-336).

(B) If not alleviated, may cause serious harm to the patient's safety or physical or mental health.

(i) "Written documentation" means accurate reproductions of those portions of a patient's medical records that have been created by the attending physician, that contain the information required by paragraph (2) of subdivision (a) of Section 11362.715, and that the patient may submit to a county health department or the county's designee as part of an application for an identification card.

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11362.71. (a) (1) The department shall establish and maintain a voluntary program for the issuance of identification cards to qualified patients who satisfy the requirements of this article and voluntarily apply to the identification card program.

(2) The department shall establish and maintain a 24-hour, toll-free telephone number that will enable state and local law enforcement officers to have immediate access to information necessary to verify the validity of an identification card issued by the department, until a cost-effective Internet Web-based system can be developed for this purpose.

(b) Every county health department, or the county's designee, shall do all of the following:

(1) Provide applications upon request to individuals seeking to join the identification card program.

(2) Receive and process completed applications in accordance with Section 11362.72.

(3) Maintain records of identification card programs.

(4) Utilize protocols developed by the department pursuant to paragraph (1) of subdivision (d).

(5) Issue identification cards developed by the department to approved applicants and designated primary caregivers.

(c) The county board of supervisors may designate another health-related governmental or nongovernmental entity or organization to perform the functions described in subdivision (b), except for an entity or organization that cultivates or distributes marijuana.

(d) The department shall develop all of the following:

(1) Protocols that shall be used by a county health department or the county's designee to implement the responsibilities described in subdivision (b), including, but not limited to, protocols

to confirm the accuracy of information contained in an application and to protect the confidentiality of program records.

(2) Application forms that shall be issued to requesting applicants.

(3) An identification card that identifies a person authorized to engage in the medical use of marijuana and an identification card that identifies the person's designated primary caregiver, if any. The two identification cards developed pursuant to this paragraph shall be easily distinguishable from each other.

(e) No person or designated primary caregiver in possession of a valid identification card shall be subject to arrest for possession, transportation, delivery, or cultivation of medical marijuana in an amount established pursuant to this article, unless there is reasonable cause to believe that the information contained in the card is false or falsified, the card has been obtained by means of fraud, or the person is otherwise in violation of the provisions of this article.

(f) It shall not be necessary for a person to obtain an identification card in order to claim the protections of Section 11362.5.

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11362.715. (a) A person who seeks an identification card shall pay the fee, as provided in Section 11362.755, and provide all of the following to the county health department or the county's designee on a form developed and provided by the department:

- (1) The name of the person, and proof of his or her residency within the county.
- (2) Written documentation by the attending physician in the person's medical records stating that the person has been diagnosed with a serious medical condition and that the medical use of marijuana is appropriate.
- (3) The name, office address, office telephone number, and California medical license number of the person's attending physician.
- (4) The name and the duties of the primary caregiver.
- (5) A government-issued photo identification card of the person and of the designated primary caregiver, if any. If the applicant is a person under 18 years of age, a certified copy of a birth certificate shall be deemed sufficient proof of identity.

(b) If the person applying for an identification card lacks the capacity to make medical decisions, the application may be made by the person's legal representative, including, but not limited to, any of the following:

- (1) A conservator with authority to make medical decisions.
- (2) An attorney-in-fact under a durable power of attorney for health care or surrogate decisionmaker authorized under another advanced health care directive.

(3) Any other individual authorized by statutory or decisional law to make medical decisions for

the person.

(c) The legal representative described in subdivision (b) may also designate in the application an individual, including himself or herself, to serve as a primary caregiver for the person, provided that the individual meets the definition of a primary caregiver.

(d) The person or legal representative submitting the written information and documentation described in subdivision (a) shall retain a copy thereof.

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11362.72. (a) Within 30 days of receipt of an application for an identification card, a county health department or the county's designee shall do all of the following:

(1) For purposes of processing the application, verify that the information contained in the application is accurate. If the person is less than 18 years of age, the county health department or its designee shall also contact the parent with legal authority to make medical decisions, legal guardian, or other person or entity with legal authority to make medical decisions, to verify the information.

(2) Verify with the Medical Board of California or the Osteopathic Medical Board of California that the attending physician has a license in good standing to practice medicine or osteopathy in the state.

(3) Contact the attending physician by facsimile, telephone, or mail to confirm that the medical records submitted by the patient are a true and correct copy of those contained in the physician's office records. When contacted by a county health department or the county's designee, the attending physician shall confirm or deny that the contents of the medical records are accurate.

(4) Take a photograph or otherwise obtain an electronically transmissible image of the applicant and of the designated primary caregiver, if any.

(5) Approve or deny the application. If an applicant who meets the requirements of Section 11362.715 can establish that an identification card is needed on an emergency basis, the county or its designee shall issue a temporary identification card that shall be valid for 30 days from the date of issuance. The county, or its designee, may extend the temporary identification card for no more than 30 days at a time, so long as the applicant continues to meet the requirements of this paragraph.

(b) If the county health department or the county's designee approves the application, it shall, within 24 hours, or by the end of the next working day of approving the application, electronically transmit the following information to the department:

(1) A unique user identification number of the applicant.

(2) The date of expiration of the identification card.

(3) The name and telephone number of the county health department or the county's designee that

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has approved the application.

(c) The county health department or the county's designee shall issue an identification card to the applicant and to his or her designated primary caregiver, if any, within five working days of approving the application.

(d) In any case involving an incomplete application, the applicant shall assume responsibility for rectifying the deficiency. The county shall have 14 days from the receipt of information from the applicant pursuant to this subdivision to approve or deny the application.

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11362.735. (a) An identification card issued by the county health department shall be serially numbered and shall contain all of the following:

- (1) A unique user identification number of the cardholder.
- (2) The date of expiration of the identification card.
- (3) The name and telephone number of the county health department or the county's designee that has approved the application.
- (4) A 24-hour, toll-free telephone number, to be maintained by the department, that will enable state and local law enforcement officers to have immediate access to information necessary to verify the validity of the card.
- (5) Photo identification of the cardholder.

(b) A separate identification card shall be issued to the person's designated primary caregiver, if any, and shall include a photo identification of the caregiver.

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11362.74. (a) The county health department or the county's designee may deny an application only for any of the following reasons:

- (1) The applicant did not provide the information required by Section 11362.715, and upon notice of the deficiency pursuant to subdivision (d) of Section 11362.72, did not provide the information within 30 days.
- (2) The county health department or the county's designee determines that the information provided was false.
- (3) The applicant does not meet the criteria set forth in this article.

(b) Any person whose application has been denied pursuant to subdivision (a) may not reapply for six months from the date of denial unless otherwise authorized by the county health department or the county's designee or by a court of competent jurisdiction.

(c) Any person whose application has been denied pursuant to subdivision (a) may appeal that decision to the

department. The county health department or the county's designee shall make available a telephone number or address to which the denied applicant can direct an appeal.

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11362.745. (a) An identification card shall be valid for a period of one year.

(b) Upon annual renewal of an identification card, the county health department or its designee shall verify all new information and may verify any other information that has not changed. (c) The county health department or the county's designee shall transmit its determination of approval or denial of a renewal to the department.

11362.755. (a) The department shall establish application and renewal fees for persons seeking to obtain or renew identification cards that are sufficient to cover the expenses incurred by the department, including the startup cost, the cost of reduced fees for Medi-Cal beneficiaries in accordance with subdivision (b), the cost of identifying and developing a cost-effective Internet Web-based system, and the cost of maintaining the 24-hour toll-free telephone number. Each county health department or the county's designee may charge an additional fee for all costs incurred by the county or the county's designee for administering the program pursuant to this article.

(b) Upon satisfactory proof of participation and eligibility in the Medi-Cal program, a Medi-Cal beneficiary shall receive a 50 percent reduction in the fees established pursuant to this section.

11362.76. (a) A person who possesses an identification card shall:

(1) Within seven days, notify the county health department or the county's designee of any change in the person's attending physician or designated primary caregiver, if any.

(2) Annually submit to the county health department or the county's designee the following:

(A) Updated written documentation of the person's serious medical condition.

(B) The name and duties of the person's designated primary caregiver, if any, for the forthcoming year.

(b) If a person who possesses an identification card fails to comply with this section, the card shall be deemed expired. If an identification card expires, the identification card of any designated primary caregiver of the person shall also expire.

(c) If the designated primary caregiver has been changed, the previous primary caregiver shall return his or her identification card to the department or to the county health department or the county's designee.

(d) If the owner or operator or an employee of the owner or operator of a provider has been designated as a primary caregiver pursuant to paragraph (1) of subdivision (d) of Section 11362.7, of the qualified patient or person with an identification card, the owner or operator shall notify the county health department or the county's designee, pursuant to Section 11362.715, if a change in the designated primary caregiver has occurred.

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11362.765. (a) Subject to the requirements of this article, the individuals specified in subdivision (b) shall not be subject, on that sole basis, to criminal liability under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570. However, nothing in this section shall authorize the individual to smoke or otherwise consume marijuana unless otherwise authorized by this article, nor shall anything in this section authorize any individual or group to cultivate or distribute marijuana for profit.

(b) Subdivision (a) shall apply to all of the following:

(1) A qualified patient or a person with an identification card who transports or processes marijuana for his or her own personal medical use.

(2) A designated primary caregiver who transports, processes, administers, delivers, or gives away marijuana for medical purposes, in amounts not exceeding those established in subdivision (a) of Section 11362.77, only to the qualified patient of the primary caregiver, or to the person with an identification card who has designated the individual as a primary caregiver.

(3) Any individual who provides assistance to a qualified patient or a person with an identification card, or his or her designated primary caregiver, in administering medical marijuana to the qualified patient or person or acquiring the skills necessary to cultivate or administer marijuana for medical purposes to the qualified patient or person.

(c) A primary caregiver who receives compensation for actual expenses, including reasonable compensation incurred for services provided to an eligible qualified patient or person with an identification card to enable that person to use marijuana under this article, or for payment for out-of-pocket expenses incurred in providing those services, or both, shall not, on the sole basis of that fact, be subject to prosecution or punishment under Section 11359 or 11360.

[Click here to read the amended language passed by the legislature in 2004:](#)

11362.77. (a) A qualified patient or primary caregiver may possess no more than eight ounces of dried marijuana per qualified patient. In addition, a qualified patient or primary caregiver may also maintain no more than six mature or 12 immature marijuana plants per qualified patient.

(b) If a qualified patient or primary caregiver has a doctor's recommendation that this quantity does not meet the qualified patient's medical needs, the qualified patient or primary caregiver may possess an amount of marijuana consistent with the patient's needs.

(c) Counties and cities may retain or enact medical marijuana guidelines allowing qualified patients or primary caregivers to exceed the state limits set forth in subdivision (a).

(d) Only the dried mature processed flowers of female cannabis plant or the plant conversion shall be considered when determining allowable quantities of marijuana under this section.

(e) The Attorney General may recommend modifications to the possession or cultivation limits set forth in this section. These recommendations, if any, shall be made to the Legislature no later than December 1, 2005, and may be made only after public comment and consultation with interested organizations, including, but not

limited to, patients, health care professionals, researchers, law enforcement, and local governments. Any recommended modification shall be consistent with the intent of this article and shall be based on currently available scientific research.

(f) A qualified patient or a person holding a valid identification card, or the designated primary caregiver of that qualified patient or person, may possess amounts of marijuana consistent with this article.

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11362.775. Qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who associate within the State of California in order collectively or cooperatively to cultivate marijuana for medical purposes, shall not solely on the basis of that fact be subject to state criminal sanctions under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570.

11362.78. A state or local law enforcement agency or officer shall not refuse to accept an identification card issued by the department unless the state or local law enforcement agency or officer has reasonable cause to believe that the information contained in the card is false or fraudulent, or the card is being used fraudulently.

11362.785. (a) Nothing in this article shall require any accommodation of any medical use of marijuana on the property or premises of any place of employment or during the hours of employment or on the property or premises of any jail, correctional facility, or other type of penal institution in which prisoners reside or persons under arrest are detained.

(b) Notwithstanding subdivision (a), a person shall not be prohibited or prevented from obtaining and submitting the written information and documentation necessary to apply for an identification card on the basis that the person is incarcerated in a jail, correctional facility, or other penal institution in which prisoners reside or persons under arrest are detained.

(c) Nothing in this article shall prohibit a jail, correctional facility, or other penal institution in which prisoners reside or persons under arrest are detained, from permitting a prisoner or a person under arrest who has an identification card, to use marijuana for medical purposes under circumstances that will not endanger the health or safety of other prisoners or the security of the facility.

(d) Nothing in this article shall require a governmental, private, or any other health insurance provider or health care service plan to be liable for any claim for reimbursement for the medical use of marijuana.

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11362.79. Nothing in this article shall authorize a qualified patient or person with an identification card to engage in the smoking of medical marijuana under any of the following circumstances:

(a) In any place where smoking is prohibited by law.

(b) In or within 1,000 feet of the grounds of a school, recreation center, or youth center, unless the medical use occurs within a residence.

- (c) On a schoolbus.
- (d) While in a motor vehicle that is being operated.
- (e) While operating a boat.

11362.795. (a) (1) Any criminal defendant who is eligible to use marijuana pursuant to Section 11362.5 may request that the court confirm that he or she is allowed to use medical marijuana while he or she is on probation or released on bail.

(2) The court's decision and the reasons for the decision shall be stated on the record and an entry stating those reasons shall be made in the minutes of the court.

(3) During the period of probation or release on bail, if a physician recommends that the probationer or defendant use medical marijuana, the probationer or defendant may request a modification of the conditions of probation or bail to authorize the use of medical marijuana.

(4) The court's consideration of the modification request authorized by this subdivision shall comply with the requirements of this section.

(b) (1) Any person who is to be released on parole from a jail, state prison, school, road camp, or other state or local institution of confinement and who is eligible to use medical marijuana pursuant to Section 11362.5 may request that he or she be allowed to use medical marijuana during the period he or she is released on parole. A parolee's written conditions of parole shall reflect whether or not a request for a modification of the conditions of his or her parole to use medical marijuana was made, and whether the request was granted or denied.

(2) During the period of the parole, where a physician recommends that the parolee use medical marijuana, the parolee may request a modification of the conditions of the parole to authorize the use of medical marijuana.

(3) Any parolee whose request to use medical marijuana while on parole was denied may pursue an administrative appeal of the decision. Any decision on the appeal shall be in writing and shall reflect the reasons for the decision.

(4) The administrative consideration of the modification request authorized by this subdivision shall comply with the requirements of this section.

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11362.8. No professional licensing board may impose a civil penalty or take other disciplinary action against a licensee based solely on the fact that the licensee has performed acts that are necessary or appropriate to carry out the licensee's role as a designated primary caregiver to a person who is a qualified patient or who possesses a lawful identification card issued pursuant to Section 11362.72. However, this section shall not apply to acts performed by a physician relating to the discussion or recommendation of the medical use of marijuana to a patient. These discussions or recommendations, or both, shall be governed by Section 11362.5.

11362.81. (a) A person specified in subdivision (b) shall be subject to the following penalties:

(1) For the first offense, imprisonment in the county jail for no more than six months or a fine not to exceed one thousand dollars (\$1,000), or both.

(2) For a second or subsequent offense, imprisonment in the county jail for no more than one year, or a fine not to exceed one thousand dollars (\$1,000), or both.

(b) Subdivision (a) applies to any of the following:

(1) A person who fraudulently represents a medical condition or fraudulently provides any material misinformation to a physician, county health department or the county's designee, or state or local law enforcement agency or officer, for the purpose of falsely obtaining an identification card.

(2) A person who steals or fraudulently uses any person's identification card in order to acquire, possess, cultivate, transport, use, produce, or distribute marijuana.

(3) A person who counterfeits, tampers with, or fraudulently produces an identification card.

(4) A person who breaches the confidentiality requirements of this article to information provided to, or contained in the records of, the department or of a county health department or the county's designee pertaining to an identification card program.

(c) In addition to the penalties prescribed in subdivision (a), any person described in subdivision (b) may be precluded from attempting to obtain, or obtaining or using, an identification card for a period of up to six months at the discretion of the court.

(d) In addition to the requirements of this article, the Attorney General shall develop and adopt appropriate guidelines to ensure the security and nondiversion of marijuana grown for medical use by patients qualified under the Compassionate Use Act of 1996.

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11362.82. If any section, subdivision, sentence, clause, phrase, or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate, distinct, and independent provision, and that holding shall not affect the validity of the remaining portion thereof.

11362.83. Nothing in this article shall prevent a city or other local governing body from adopting and enforcing laws consistent with this article.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

In addition, no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for other costs mandated by the state because this act includes additional revenue that is specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state

mandate, within the meaning of Section 17556 of the Government Code.

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*** Footnotes to the above:**

11366. Every person who opens or maintains any place for the purpose of unlawfully selling, giving away, or using any controlled substance which is (1) specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (13), (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b), (c), paragraph (1) or (2) of subdivision (d), or paragraph (3) of subdivision (e) of Section 11055, or (2) which is a narcotic drug classified in Schedule III, IV, or V, shall be punished by imprisonment in the county jail for a period of not more than one year or the state prison.

11366.5. (a) Any person who has under his or her management or control any building, room, space, or enclosure, either as an owner, lessee, agent, employee, or mortgagee, who knowingly rents, leases, or makes available for use, with or without compensation, the building, room, space, or enclosure for the purpose of unlawfully manufacturing, storing, or distributing any controlled substance for sale or distribution shall be punished by imprisonment in the county jail for not more than one year, or in the state prison.

(b) Any person who has under his or her management or control any building, room, space, or enclosure, either as an owner, lessee, agent, employee, or mortgagee, who knowingly allows the building, room, space, or enclosure to be fortified to suppress law enforcement entry in order to further the sale of any amount of cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, cocaine as specified in paragraph (6) of subdivision (b) of Section 11055, heroin, phencyclidine, amphetamine, methamphetamine, or lysergic acid diethylamide and who obtains excessive profits from the use of the building, room, space, or enclosure shall be punished by imprisonment in the state prison for two, three, or four years.

(c) Any person who violates subdivision (a) after previously being convicted of a violation of subdivision (a) shall be punished by imprisonment in the state prison for two, three, or four years.

(d) For the purposes of this section, "excessive profits" means the receipt of consideration of a value substantially higher than fair market value.

11570. Every building or place used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, or giving away any controlled substance, precursor, or analog specified in this division, and every building or place wherein or upon which those acts take place, is a nuisance which shall be enjoined, abated, and prevented, and for which damages may be recovered, whether it is a public or private nuisance.

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Medical Marijuana Research program

11362.9. (a) (1) It is the intent of the Legislature that the state commission objective scientific research by the premier research institute of the world, the University of California, regarding the efficacy and safety of administering marijuana as part of medical treatment. If the Regents of the University of California, by appropriate resolution, accept this responsibility, the University of California shall create a program, to be known as the California Marijuana Research Program. (2) The program shall develop and conduct studies

intended to ascertain the general medical safety and efficacy of marijuana and, if found valuable, shall develop medical guidelines for the appropriate administration and use of marijuana. (b) The program may immediately solicit proposals for research projects to be included in the marijuana studies. Program requirements to be used when evaluating responses to its solicitation for proposals, shall include, but not be limited to, all of the following:

(1) Proposals shall demonstrate the use of key personnel, including clinicians or scientists and support personnel, who are prepared to develop a program of research regarding marijuana's general medical efficacy and safety.

(2) Proposals shall contain procedures for outreach to patients with various medical conditions who may be suitable participants in research on marijuana.

(3) Proposals shall contain provisions for a patient registry. (4) Proposals shall contain provisions for an information system

that is designed to record information about possible study participants, investigators, and clinicians, and deposit and analyze data that accrues as part of clinical trials.

(5) Proposals shall contain protocols suitable for research on marijuana, addressing patients diagnosed with the acquired immunodeficiency syndrome (AIDS) or the human immunodeficiency virus (HIV), cancer, glaucoma, or seizures or muscle spasms associated with a chronic, debilitating condition. The proposal may also include research on other serious illnesses, provided that resources are available and medical information justifies the research.

(6) Proposals shall demonstrate the use of a specimen laboratory capable of housing plasma, urine, and other specimens necessary to study the concentration of cannabinoids in various tissues, as well as housing specimens for studies of toxic effects of marijuana.

(7) Proposals shall demonstrate the use of a laboratory capable of analyzing marijuana, provided to the program under this section, for purity and cannabinoid content and the capacity to detect contaminants.

(c) In order to ensure objectivity in evaluating proposals, the program shall use a peer review process that is modeled on the process used by the National Institutes of Health, and that guards against funding research that is biased in favor of or against particular outcomes. Peer reviewers shall be selected for their expertise in the scientific substance and methods of the proposed research, and their lack of bias or conflict of interest regarding the applicants or the topic of an approach taken in the proposed research. Peer reviewers shall judge research proposals on several criteria, foremost among which shall be both of the following:

(1) The scientific merit of the research plan, including whether the research design and experimental procedures are potentially biased for or against a particular outcome.

(2) Researchers' expertise in the scientific substance and methods of the proposed research, and their lack of bias or conflict of interest regarding the topic of, and the approach taken in, the proposed research.

(d) If the program is administered by the Regents of the University of California, any grant research proposals approved by the program shall also require review and approval by the research advisory panel.

(e) It is the intent of the Legislature that the program be established as follows:

(1) The program shall be located at one or more University of California campuses that have a core of faculty experienced in organizing multidisciplinary scientific endeavors and, in particular, strong experience in clinical trials involving psychopharmacologic agents. The campuses at which research under the auspices of the program is to take place shall accommodate the administrative offices, including the director of the program, as well as a data management unit, and facilities for storage of specimens.

(2) When awarding grants under this section, the program shall utilize principles and parameters of the other well-tested statewide research programs administered by the University of California, modeled after programs administered by the National Institutes of Health, including peer review evaluation of the scientific merit of

applications.

(3) The scientific and clinical operations of the program shall occur, partly at University of California campuses, and partly at other postsecondary institutions, that have clinicians or scientists with expertise to conduct the required studies. Criteria for selection of research locations shall include the elements listed in subdivision (b) and, additionally, shall give particular weight to the organizational plan, leadership qualities of the program director, and plans to involve investigators and patient populations from multiple sites.

(4) The funds received by the program shall be allocated to various research studies in accordance with a scientific plan developed by the Scientific Advisory Council. As the first wave of studies is completed, it is anticipated that the program will receive requests for funding of additional studies. These requests shall be reviewed by the Scientific Advisory Council.

(5) The size, scope, and number of studies funded shall be commensurate with the amount of appropriated and available program funding.

(f) All personnel involved in implementing approved proposals shall be authorized as required by Section 11604.

(g) Studies conducted pursuant to this section shall include the greatest amount of new scientific research possible on the medical uses of, and medical hazards associated with, marijuana. The program shall consult with the Research Advisory Panel analogous agencies in other states, and appropriate federal agencies in an attempt to avoid duplicative research and the wasting of research dollars.

(h) The program shall make every effort to recruit qualified patients and qualified physicians from throughout the state.

(i) The marijuana studies shall employ state-of-the-art research methodologies.

(j) The program shall ensure that all marijuana used in the studies is of the appropriate medical quality and shall be obtained from the National Institute on Drug Abuse or any other federal agency designated to supply marijuana for authorized research. If these federal agencies fail to provide a supply of adequate quality and quantity within six months of the effective date of this section, the Attorney General shall provide an adequate supply pursuant to Section 11478.

(k) The program may review, approve, or incorporate studies and research by independent groups presenting scientifically valid protocols for medical research, regardless of whether the areas of study are being researched by the committee.

(l) (1) To enhance understanding of the efficacy and adverse effects of marijuana as a pharmacological agent, the program shall conduct focused controlled clinical trials on the usefulness of marijuana in patients diagnosed with AIDS or HIV, cancer, glaucoma, or seizures or muscle spasms associated with a chronic, debilitating condition. The program may add research on other serious illnesses, provided that resources are available and medical information justifies the research. The studies shall focus on comparisons of both the efficacy and safety of methods of administering the drug to patients, including inhalational, tinctural, and oral, evaluate possible uses of marijuana as a primary or adjunctive treatment, and develop further information on optimal dosage, timing, mode of administration, and variations in the effects of different cannabinoids and varieties of marijuana.

(2) The program shall examine the safety of marijuana in patients with various medical disorders, including marijuana's interaction with other drugs, relative safety of inhalation versus oral forms, and the effects on mental function in medically ill persons.

(3) The program shall be limited to providing for objective scientific research to ascertain the efficacy and safety of marijuana as part of medical treatment, and should not be construed as encouraging or sanctioning the social or recreational use of marijuana.

(m) (1) Subject to paragraph (2), the program shall, prior to any approving proposals, seek to obtain research

protocol guidelines from the National Institutes of Health and shall, if the National Institutes of Health issues research protocol guidelines, comply with those guidelines.

(2) If, after a reasonable period of time of not less than six months and not more than a year has elapsed from the date the program seeks to obtain guidelines pursuant to paragraph (1), no guidelines have been approved, the program may proceed using the research protocol guidelines it develops.

(n) In order to maximize the scope and size of the marijuana studies, the program may do any of the following:

(1) Solicit, apply for, and accept funds from foundations, private individuals, and all other funding sources that can be used to expand the scope or timeframe of the marijuana studies that are authorized under this section.

The program shall not expend more than 5 percent of its General Fund allocation in efforts to obtain money from outside sources.

(2) Include within the scope of the marijuana studies other marijuana research projects that are independently funded and that meet the requirements set forth in subdivisions (a) to (c), inclusive. In no case shall the program accept any funds that are offered with any conditions other than that the funds be used to study the efficacy and safety of marijuana as part of medical treatment. Any donor shall be advised that funds given for purposes of this section will be used to study both the possible benefits and detriments of marijuana and that he or she will have no control over the use of these funds.

(o) (1) Within six months of the effective date of this section, the program shall report to the Legislature, the Governor, and the Attorney General on the progress of the marijuana studies.

(2) Thereafter, the program shall issue a report to the Legislature every six months detailing the progress of the studies. The interim reports required under this paragraph shall include, but not be limited to, data on all of the following:

(A) The names and number of diseases or conditions under study.

(B) The number of patients enrolled in each study by disease.

(C) Any scientifically valid preliminary findings.

(p) If the Regents of the University of California implement this section, the President of the University of California shall appoint a multidisciplinary Scientific Advisory Council, not to exceed 15 members, to provide policy guidance in the creation and implementation of the program. Members shall be chosen on the basis of scientific expertise. Members of the council shall serve on a voluntary basis, with reimbursement for expenses incurred in the course of their participation. The members shall be reimbursed for travel and other necessary expenses incurred in their performance of the duties of the council.

(q) No more than 10 percent of the total funds appropriated may be used for all aspects of the administration of this section. (r) This section shall be implemented only to the extent that funding for its purposes is appropriated by the Legislature in the annual Budget Act..



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INTRODUCTION TO MODEL ORDINANCE

This Merit-Based Approval Process is issued for the purpose identifying qualified firms or individuals (Permittees), and soliciting applications from such Permittees, to engage in a Medical Cannabis Dispensary business that provides safe and adequate access to Qualified Patients and their Primary Caregivers. Applicants will compete for available Permits to operate a Medical Cannabis Dispensary pursuant to State Law and the governing local city and/or county ordinances applicable to the jurisdiction in which such Dispensary is to be located. Selected Permittees will be required to comply with such operating standards, regulations, and reporting requirements as are or will be promulgated by the applicable Public Administrator or his/her designee.

BACKGROUND

The Statewide Cannabis Movement

On November 6, 1996, Proposition 215, the California Compassionate Use Act (CUA), was enacted by the voters (California Health & Safety Code 11362.5). The law makes it legal for patients and their designated caregivers to possess and cultivate cannabis for their personal medical use given the recommendation or approval of a licensed physician. This was expanded through SB 420 on January 1, 2004 to (i) allow patients to form medical cultivation "collectives" or "cooperatives"; (ii) establish a voluntary state ID card system run through county health departments; and (iii) establish guidelines or safe harbors as to quantities patients can possess and cultivate, protecting from arrest legal patients who stay within the guidelines.

However, reports from across the state revealed problems and uncertainties in the act that impeded the ability of law enforcement officers to enforce its provisions as the voters intended. This, in turn, prevented qualified patients and their primary caregivers who desired to avoid unnecessary arrest and prosecution from obtaining the protections afforded by the act, thereby fostering an atmosphere which suppressed the development of information needed to assess the number of individuals across the state who are suffering from serious medical conditions that are not being adequately alleviated through the use of conventional medications.

In addition, there were significant issues contemplated by the CUA, but not expressly enumerated therein, leading to the inconsistent and non-uniform application of that act within the counties and municipalities in the state. Accordingly, the California Legislature enacted the Medical Marijuana Program Act ("MMPA") in 2004, amending various sections of the Health & Safety code pertaining to cannabis. The MMPA expressly authorized a system of identifying Qualified Patients and their Primary Caregivers, and provided express authorization for such persons to associate with one another for the purpose of cultivating, processing, dispensing and using medical cannabis. The MMPA also directed the Attorney General to issue guidelines by which medical cannabis was to be lawfully cultivated, processed and dispensed in the state.

In 2008, the Attorney General issued, pursuant to the authority granted by the MMPA, detailed guidelines by which medical cannabis was to be lawfully cultivated, processed and dispensed in the state. These guidelines included additional details concerning identification of Qualified Patients and their Primary Caregivers, as well as the legal structures by which such persons could associate to carry out the purposes of the CUA and the MMPA. Such structures included informal collectives and associations as well as statutory cooperatives and formal "Dispensaries."

In 2009, the Fourth District Court of Appeal for the State of California issued its opinion in *Qualified Patients vs. City of Anaheim*. That decision held that a city or county is precluded from issuing blanket prohibitions on the presence of lawful medical cannabis collectives, associations or dispensaries, since such operations are expressly authorized as legal entities under state law.

Medical Cannabis Licensing in California

Since the enactment of the MMPA, numerous cities and counties within the state have adopted ordinances permitting distribution of medical cannabis to authorized patients through licensed dispensaries, most of which are successful, and some of which sought to become role models for the nation. In addition to these ordinances, the voters of many cities and counties have overwhelmingly enacted measures which impose taxes on certain medical cannabis operations. However, such licensing systems lack an important component: A Merit-Based Approval Process that identifies responsible and accountable Permittees who provide a dignified and transparent model for providing safe and adequate access to medical cannabis.

Statement of Purpose

The purpose of this Merit Based Approval Process, hereinafter MBAP, is to solicit the best applications for Medical Cannabis Dispensary Permits. The winning submissions will not only set forth the best business practices for preventing cannabis diversion through a "closed loop" model, but also demonstrate forward thinking that serves to address any actual or potential concern the City/County may have, and present solutions to foreseeable environmental, public safety, and labor & employment issues.

DEFINITIONS

The following words or phrases, whenever used in this MBAP and attached regulations, shall be given the following definitions:

- A. "Applicant" shall mean any individual, firm, cooperative, association, collective, or corporations that apply for a Medical Cannabis Dispensary Permit via the MBAP described herein.
- B. "Batch" shall be defined to mean a discrete quantity of dried cannabis sold.

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- C. "Cannabis" shall have the same meaning as "Marijuana."
- D. "Department" means the State Department of Health Services.
- E. "Excessive Net Revenues" means any annual consideration received by the Permittee for the dispensing of cannabis (either calculated based on a calendar year or a fiscal year) which is substantially higher than the Permittee's legitimate operating costs, or which is grossly disproportionate to similarly situated Medical Dispensaries.
- F. "HVAC" means Heating, Ventilating, and Air Conditioning systems that are designed to provide safe and healthy building conditions with regulated temperature and humidity controls.
- G. "Identification Card" means a document issued by the Department, the Patient ID Center, or other agency approved by the Public Administrator identifying a person as a Qualified Patient and/or Primary Caregiver authorized to use or dispense Cannabis.
- H. "Management Member" means a Medical Cannabis Dispensary member responsible for the establishment, organization, registration, supervision or oversight of the operations of said Dispensary, including (but not limited to) members performing the function of president, vice president, director, operating officer, financial officer, secretary, treasurer or manager.
- I. "Medical Cannabis Collective" means a cooperative affiliation (other than a statutory cooperative under Corp Code Sections 12201 et seq. or Food & Ag code 54002 et seq.) comprised of no more than three qualified patients, primary caregivers or persons with identification cards, that provides education, referral, or network services and/or that facilitates or assists in the lawful production, acquisition, processing or distribution of medical cannabis among its members.
- J. "Medical Cannabis Dispensary" means any association, cooperative affiliation or collective of persons, where four or more Qualified Patients and/or Primary Caregivers provides education, referral, or network services and/or that facilitates or assists in the lawful production, acquisition, processing or distribution of medical cannabis among its members.
- K. "Permittees" means facilities that have obtained a permit pursuant to this MBAP and the applicable city or county ordinance pursuant to which this MBAP is promulgated.
- L. "Person with an Identification Card" means an individual who has applied for and received a valid identification card confirming his or her status as a Qualified Patient or Primary Caregiver.

M. "Primary caregiver" means the individual, at least 18 years of age, designated by a qualified patient or by a Person with an Identification Card, who has;

1. In any case in which a Qualified Patient or Person with an Identification Card receives medical care or supportive services, or both, from a clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2, a health care facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 (commencing with Section 1568.01) of Division 2, a residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569) of Division 2, a hospice, or a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2, the owner or operator, or no more than three employees who are designated by the owner or operator, of the clinic, facility, hospice, or home health agency, if designated as a Primary Caregiver by that Qualified Patient or Person with an Identification Card.
2. An individual who has been designated as a Primary Caregiver by more than one Qualified Patient or Person with an Identification Card, if every Qualified Patient or Person with an Identification Card who has designated that individual as a primary caregiver resides in the same city or county as the Primary Caregiver.
3. An individual who has been designated as a Primary Caregiver by a Qualified Patient or person with an identification card who resides in a city or county other than that of the Primary Caregiver, if the individual has not been designated as a Primary Caregiver by any other Qualified Patient or Person with an Identification card.
4. A person less than 18 years of age if he or she is the parent of a minor child who is a Qualified Patient or a Person with an Identification Card, or if the Primary Caregiver is a person otherwise entitled to make medical decisions under state law pursuant to Sections 6922, 7002, 7050, or 7120 of the Family Code.

N. "Public Administrator" means the City Administrator (and his or her designee) for the municipality or the County Administrator (and/or his or her designee), as the case may be.

O. "Qualified Patient" means a person who is entitled to the protections of California Health and Safety Code Section 11362.5.

P. "Recommending Physician" means a person who (1) possesses a license in good standing to practice medicine in California; (2) has taken responsibility for some aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient; and (3) has complied with accepted medical standards (as described by the Medical Board of California in its May 13, 2004 press release) that a reasonable and prudent physician would follow when recommending or approving medical cannabis for the treatment of his or her patient.

Q. "Reasonable Compensation" means compensation commensurate with competitive wages and benefits paid to employees in the same, substantially similar or analogous IRS-qualified non-profit organizations with similar job descriptions and duties, education level and experience, and number of hours worked or to be worked.

R. "Serious medical condition" means all of the following medical conditions:

1. Acquired immune deficiency syndrome (AIDS);
2. Anorexia.
3. Arthritis.
4. Cachexia.
5. Cancer.
6. Chronic pain.
7. Glaucoma.
8. Migraine.
9. Persistent muscle spasms, including, but not limited to, spasms associated with multiple sclerosis.
10. Seizures, including, but not limited to, seizures associated with epilepsy.
11. Severe nausea.
12. Any other chronic or persistent medical symptom that either:

(a) Substantially limits the ability of the person to conduct one or more major life activities as defined in the Americans with Disabilities Act of 1990 (Public Law 101-336);

(b) if not alleviated, may cause serious harm to the patient's safety or physical or mental health; or

(c) is relieved through the use of cannabis.

S. "Written documentation" means accurate reproductions of those portions of a patient's medical records that have been created by the Recommending Physician containing the information required by paragraph (2) of subdivision (a) of Section 11362.715, that the patient submits as part of an application for an identification card.

THE APPLICATION PROCESS

Overview

This MBAP calls for a two phase application process described below. The MBAP considers six (6) primary components as well as four (4) secondary components representing "bonus points"

for applicants who satisfactorily demonstrate proficiency with regard to the six (6) primary components.

The six (6) primary components considered under the MBAP are as follows:

1. Business Plan;
2. Building Construction/Plan and Schedule for Planned Construction;
3. Security Plan;
4. Fire Protection Plan;
5. Environmental Plan; and
6. Capitalization. The four (4) "bonus points" categories are as follows:
 - (a) Labor and Employment Practices;
 - (b) Environmental Mitigation;
 - (c) Product Safety; and
 - (d) Community Benefits.

Phase I -Applications

- A. All Applicants will be required to submit an application form, with required attachments, and a non-refundable application fee to be determined by the Public Administrator. Attachments will include, but may not be limited to the following:
 1. Address of proposed facility for mapping purposes (Staff will work with planning department to map proposed site). The facility shall be located in a commercial, industrial or mixed-use zone, or their equivalent. Unless the Public Administrator or his/her designee in their discretion determines that the location will not impact the peace and order and welfare of the public, the facility shall not be located within six hundred (600) feet of a public or private school, a public library or youth center serving youth eighteen (18) and under, a parks and recreation facility, a residential zone, or another lawfully permitted dispensary;
 2. Articles of Incorporation and Bylaws which have been previously filed with the State of California;
 3. Live scan submission for all business partners and managers operating the facility;
 4. Business Plan, that includes building, construction, security, and fire prevention plans;
 5. Proof of Capitalization;
 6. Proof of Insurance; and

7. Community Benefits Plan.

- B. Complete applications submitted by the deadline published by the Public Administrator will all be redacted, assigned a reference number, and reviewed by Special Business permit staff. Staff review will be conducted in a blind manner with reviewer not knowing the identity of the applicants.
- C. Incomplete submissions will be deemed "null and void" and not considered;
- D. Applications will be deemed "null and void" if they do not comply with location requirements (i.e. they are located outside commercial, industrial or mixed-use zones specially authorized under the applicable ordinance).

Phase II – Examinations and Hearings

- A. A top tier of select Applicants representing the best submissions will then move on to a Phase II Examination and Public Hearing. Staff will schedule an examination which will be used as a component of Phase II scoring. All finalists will be required to designate a Management Member to take a Cannabis Dispensary exam. The exam will test the Applicant's familiarity with local ordinances and California law, as well as the Attorney General's guidelines on Medicinal Cannabis. Scores will be added to original score total.
- B. Exam scores will be added to the prior scoring total. The highest scoring applicants, equal to the number of available permits, will then be subject to a public hearing noticed to the community where the proposed dispensary is located. Public Hearings will be used to determine who gets a permit.
- C. Hearing decisions, recommendations, and conditions will be based primarily on community input, site inspection results, business feasibility, and the viability of the proposed location.
- D. Prior to public hearings, all proposed Dispensary sites will be inspected by a building official to ascertain current condition of location. The community will be allowed to present concerns and/or support and provide additional considerations for potential permit conditions that will be created by staff.
- E. Public Hearings will be scheduled on the basis of Examination ranking, with the highest scoring Applicant being given the first available hearing opportunity. In the event an Applicant is disqualified as a result of community input then the Applicant with the next highest score on the Examination will have a Public Hearing scheduled to determine their viability.

SUBMITTAL REQUIREMENTS

Please submit one (1) copy of the completed proposal and transmittal letter to the Public Administrator's Office, Special Business Permit Division, on or before the date published by the Public Administrator for submissions under this MBAP. The Public Administrator reserves the right to accept or reject any or all proposals received not received on time, without appropriate attachments, or submitted at the incorrect location. All proposals submitted via US Mail or common carrier must be delivered in a sealed package and must reference the MBAP, Applicant's location, submittal date, and time and location of the proposals on the outside of the package or the documents may not be accepted.

A. Required Proposal – Elements and Format:

1. Transmittal Letter, which must be:

- (a) Addressed to the Public Administrator, Special Business Permits Division;**
- (b) Signed by an officer of the Applicant Medical Cannabis Dispensary and who is a Qualified Patient/Patient Care giver member. In case of joint venture or other joint-prime relationship, an officer of each venture partner shall sign and correct and submitted under their supervision.**

2. A statement from a Management Member, under penalty of perjury that he has personal knowledge of the information stated in the application and it is true.

3. Applicant Business Plan -In addition to the information described below in the “Categories for Application” section of the MBAP, a business plan must contain the following information:

- (a) Identification of the primary contact/applicant, who shall be a Qualified Patient and/or Primary Caregiver;**
- (b) Articles of Incorporation and Bylaws, or documentation establishing a valid Medical Cannabis Collective or Medical Cannabis Dispensary as defined herein;**
- (c) A clear identification of the proposed facility's site, its conformance with site requirements as mandated by the applicable ordinance and this MBAP, and proof of ownership, lease, and or letter of landlord's commitment to lease upon issuance of a permit to this site; and**
- (d) Identification of all proposed managers and executives of the facility, together with Live Scan applications for each person so identified.**

B. Documents Required To Be Submitted With Proposal:

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1. Proof of Insurance
 2. Detailed Building Facility Plan/Building Construction Plan
 3. Detailed Security Plan
 4. Detailed Fire Plan
 5. Proof of Capitalization
 6. Community Benefits Plan
- C. Grounds for Rejecting Submitted Proposal: An application will be immediately determined "null and void" and will be rejected for any or all of the following reasons:
1. The proposal is delivered to the wrong location;
 2. The proposal is received at designated location after designated time;
 3. The proposal is not in compliance with the these MBAP requirements and/or any of the required Schedules are missing;
 4. The Applicant fails to submit all eligible Managing Members for Live Scan background check by the Application Deadline;
 5. The proposal does not contain the required elements, is not organized in the required format, or is incomplete in any material way;
 6. The proposal contains a disclaimer;
 7. The Application does not comply with location requirements (i.e. they are located outside commercial or industrial areas authorized in dispensary ordinance). Once the final award is made, all MBAP responses, except financial and proprietary information, become a matter of public record and shall be regarded by the City/County as public records, The City/County shall not in any way be liable or responsible for the disclosure of any such records or portions thereof if the disclosure is made pursuant to a request under the Public Records Act or any local Sunshine Ordinance.

EVALUATION OF PROPOSALS

A. General Criteria;

1. Applications for the Medical Cannabis Dispensary Permit received by the deadline set forth above will be reviewed for completeness. An Application will be voided if Applicant fails to comply with all of the "Submittal Requirements" discussed above.
2. Evaluations will place a particular focus on submissions that are forward thinking and include solutions that identify the best "green" practices, employ sustainable energy and

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waste solutions, provide a dignified workplace with living wages, discourage nuisance behaviors, and implement the "best practices" regarding the processing and dispensing of medical cannabis, especially in the areas of product safety and diversion controls.

3. All proposals will be evaluated by a staff panel selected by the Public Administrator. The evaluation of the proposals, and decisions based thereon, shall lie within the sole judgment and discretion of the panel. The proposals will be scored on the basis of the "Scoring System" discussed below.
 4. Proposals will be numerically ranked. A top tier of qualifying proposals will be submitted in rank order, based on the Phase I "Scoring System" discussed below, to the Public Administrator's designee for examination. Public hearings will then be scheduled, with the Applicant achieving the highest cumulative score (consisting of the Phase I and Phase II scores) given the first available hearing, and the remainder of the Applicants given available hearings based on their ranked order.
 5. Upon satisfactory completion of hearing and approval by the Public Administrator, a permit will be issued with stated conditions, and the Permittee may proceed with implementation pursuant to such Permit.
- B. Specific Criteria;** The following specific criteria will be used in evaluating and rating proposals:
1. Overall quality of the proposal including responsiveness and conformance to MBAP requirements for content and format;
 2. Quality and appropriateness of proposed Applicant team, professional; experience and background of prime Applicants and key sub-lessees;
 3. Appropriate personnel principals, project location, and other key personnel with required experience and skills relevant to this project;
 4. Prime Applicant's management experience in operating the proposed facility, including scheduling, cost estimating and budget management;
 5. Primary makeup of applicant corporation's board, and prior ability to work with local government agencies;
 6. Quality and appropriateness of proposed project site, business model, organization, and their knowledge and experience in working with specific legal codes and regulations; and
 7. Applicants' use and implementation of solutions designed to reduce and address any actual or potential concerns of the community.

CATEGORIES FOR APPLICATION – REQUIRED ELEMENTS

Submissions will be reviewed to determine how the applicant meets the following seven (7) major categories.

- A. **Business Plan Overview:** Each Applicant should submit a business plan generally describing their business model and plans. Plans will provide a description of proposed operation and completely detail the overall make up of the entity that will be seeking to obtain a Permt. Each plan should detail and articulate all scope of work proposed, partnerships, property and location, relationship to owner, and provide as much detail as possible into the day-to-day operation of the facility. The Business plan should also identify how cannabis will be tracked and monitored to prevent diversion, by, for example, verifying the status of Recommending Physicians and retaining all Written Recommendations of such Recommending Physician. Applicants should identify methods and manners in which they will provide information required by the Public Administrator to track product in order to prevent diversion to persons who do not suffer a Serious Medical Condition.

The plan should also articulate how Applicants business will conform to the regulations of the Public Administrator and the State of California, including but not limited to operating as a not for profit entity or other accepted business model as recognized by the Attorney general's guidelines so as to avoid realizing any Excessive Net Revenues.

Applicants should submit a narrative outlining the elements of proposed construction and improvements; time-line for proposed construction and improvements; detailing type and number of anticipated building and construction permits that may be required and factoring in time for acquiring building and construction permits into implementation schedule.

Reviewers recognize that these items maybe subject to change once permit applications are submitted to building services, Such improvements will be a significant element to a winning proposal if facility is located in an existing industrial area with aging infrastructure. Attached to the narrative should be a copy of design plans that include diagrams of proposed construction, electrical, plumbing, fire and security elements.

- B. **Business Plan – Operational Security:** Applicants shall detail their operational security including but not limited to general security policies for the facility, employee specific policies, training, sample written policies, transactional security, visitor security, 3rd party contractor security, and delivery security. This list is not intended to fully capture all areas for applicant consideration but to guide applicants into thinking about all possible security concerns related to the operation of a Medical Cannabis Dispensary. Operational portions of a security plan will be scored based on the level of consideration. applicant has given to every possible scenario and response to scenario. Applicants should also provide a detailed

description of their security plan that includes an assessment of site security by a qualified security consultant. Appropriate plans will consider all potential security threats and plan for any contingency needed for these situations. A successful Applicant will have both written and physical mechanisms in place to deal with each specific situation. A detailed schematic diagram of alarm systems and placements that also details by when all security measures will be operational will be required.

- C. **Business Plan – Facility Security and Fire Prevent/Suppression:** Applicants should provide a description and detailed schematic of the overall facility security. In particular Applicants should address ingress and egress access, perimeter security, product security (at all hours), internal security measures for access (area specific), types of security systems (alarms and cameras), and security personnel to be employed. Applicants should provide a detailed description of their Fire prevention, suppression, HVAC and alarm systems that includes an assessment of the facility's fire safety by a qualified Fire prevention suppression consultant. A fire inspection will be required annually prior to renewal of any permit awarded, to assure the Public Administrator that adequate fire safety measures remain in place. An appropriate plan will have considered all possible fire, hazardous material, and inhalation issues/threats and will have both written and physical mechanisms in place to deal with each specific situation. A detailed schematic diagram of alarm systems and placements that also details by when all fire prevention measures will be operational is required.

Any additional fire protection systems required by the Fire Code Official shall be installed forthwith, with required plans and building and construction permits submitted for approval to and by the Public Administrator per 105.7 CFC. An Inspection of operations and fire / life safety systems shall be a condition of obtaining both building and construction permits & Fire Department clearance.

Submission of these plans pursuant to this MBAP neither constitutes compliance with, or operates as a waiver of any requirement imposed by law on the Permittee to apply for and obtain permits for any and all construction including electrical, plumbing, fire and any other permits as may be deemed necessary by the relevant department in charge of such permits.

- D. **Capitalization:** A successful Applicant will have sufficient capital in place to build, secure, and start up the proposed facility. Such costs must incorporate applicable permit and application fees. The Applicants must provide proof in the form of Letters of Credit sufficient to cover construction, start up, equipment, and product production. Financial information should include estimated costs of build, operation, compensation of employees, equipment costs, utility costs, and other O & M as needed. Applicants should provide Three (3) year Pro Formas and at least one of the following documents to substantiate their ability to operate proposed facility:

1. Letter of Credit; or

2. Three (3) years of Audited Financial Statements and Tax Returns for Corporate entities that have been in existence for three (3) or more years; for entities in existence fewer than three (3) years, documentation establishing (such as articles of incorporation); or
 3. Three (3) years of Financial Statements and Tax Returns from at least two Management Members; or
 4. A description of the source and uses of the capitalization funds, and how the funds are to be expended;
- E. **Community Benefits:** Applicants must demonstrate how they intend to provide their local community with community benefits and mitigate any nuisance and/or negative impacts that the facility's existence may cause. Should the Applicant be successful and be awarded a permit, adherence to any categories discussed below for which points were awarded will become a condition of their permit, and the Public Administrator would reserve the right to enforce said condition. Applicants who demonstrate a commitment to their community and to improving the quality of life of their neighbors should receive points for sustainable practices that include:
1. Applicants must show how they plan to have minimal nuisance or negative impacts on their neighbors and community. Nuisance/negative impacts include but are not limited to: noise, odor, increased foot or vehicle traffic, increase in waste or water production, impacts to right of way access, and or increase in safety related concerns.
 2. Applicants must show how the facility will develop and implement a Community Benefits Program that is designed to give back to the community through various support services. Such services could include, by way of example, the following:
 - (a) Providing Re-entry Jobs and Job Training to the unemployed;
 - (b) Contributing to/supporting Domestic Violence prevention programs;
 - (c) Contributing to/supporting Parks and Recreation Centers, libraries, or funding for arts, culture, and environmental programs;
 - (d) Contributing to/supporting Children/Youth programs and intervention services;
 - (e) Contributing to/supporting Cannabis-Friendly Substance Abuse Education and Rehabilitation Programs;
 - (f) Funding Foreclosure Prevention and Foreclosure Abatement programs, including eviction defense following foreclosure; and

(g) Contributing to/supporting local Public Schools.

3. Applicants must detail how they will provide neighborhood improvements and will be a beneficial/positive neighbor to the neighborhood.

CATEGORIES FOR APPLICATION – OPTIONAL ELEMENTS

This MBAP identifies the following additional criteria relevant to the application process that Applicants may, but are not required to, detail in their submissions:

- A. Labor & Employment Practices: Applicants may show a history of and/or exhibit a commitment to adhering to heightened pay and benefits standards and practices,
- B. Including recognition of the collective bargaining rights of employees. Such specific practices that are subject to consideration include the following:
 1. Providing compensation to and opportunities for continuing education and training of employees/staff. Applicants should provide proof of their policy and regulations;
 2. Being a “card check-neutral” facility;
 3. Having obtained pre-existing recognition from a certified labor union;
 4. Being party to a collective bargaining agreement with a certified labor union;
 5. Providing a “living wage” to facility staff and employees. Wage scale should be provided in writing for all levels of employment at the facility. “Living Wage” shall mean 200% of the minimum wage mandated by California or Federal law, whichever is greater;
 6. As to Medical Cannabis Dispensaries, being a locally-owned facility in which at least 33% of the Applicant's Board membership is comprised of residents of the county or city in which the facility is located; and
 7. As to Medical Cannabis Collectives and Medical Cannabis Dispensaries with no employees or which are wholly worker-member owned, being a locally owned facility in which at least 50% of the workers/members are comprised of residents of the county or city in which the Facility is located.
- C. Environmental Practices: Applicants may demonstrate a commitment to “green” business practices relating to energy building & climate issues, water conservation issues, and materials & waste management issues. Such specific practices that are subject to consideration include the following:

1. Energy, Building & Climate:

- (a) Describing how the facility and all operations will maximize energy efficiency;
- (b) Committing to apply and use available PG&E programs offering free technical assistance for design and construction of building shell, tenant improvements, building systems and processes, where applicable;
- (c) Describing how renewable energy will be used on-site or purchased (e.g., solar panels);
- (d) Providing estimates of projected total facility energy consumption and greenhouse gas emissions;
- (e) Providing an estimate of energy use and a summary of the approach to be taken for lighting of facility (e.g., number and type of lights per 1,000 square feet);
- (f) Providing a description of efforts to reduce transportation emissions (e.g., use of biofuels, electric vehicles); *car pools*
- (g) Providing a description of any planned use of green building measures;
- (h) Providing a description of any other efforts to reduce or offset any greenhouse gas emissions associated with the facility and its operations (e.g., achievement of climate neutrality through efficiency, renewables and offsets); and
- ? (i) Providing a description of how existing Brownfield sites, if applicable, will be remediated and used for the planned facility.

2. Water:

- (a) Describing how water conservation strategies will be developed (e.g., use of technical assistance from local municipal water utilities); and
- (b) Describing any efforts to recycle and/or treat water on-site;

3. Materials & Waste:

- (a) Developing zero waste plans for operations with detail on the specific efforts to be undertaken; *Recycle*

- (b) Providing a description of packaging to be used, including expected use of recycled content materials, recyclable materials, and reusable materials, including plans for reuse;
- (c) Providing a description of how others up and down the supply chain will be engaged to maximize material reuse, minimize packaging, etc. (e.g., delivery in reusable containers);
- (d) Providing a prediction of operational phase waste stream broken down by garbage vs. recycled vs. composted material by volume;
- (e) Describe the extent to which organic fertilizers and pesticides will be used;
- (f) Providing a description of how toxic chemicals will be prevented from entering water, air and ground resources; and
- (g) Providing a description of how the use of toxic materials will be minimized or prohibited in all aspects of proposed operation (e.g., use of organic fertilizers, non-toxic pesticides).

C. Product Safety Practices: Applicants may show the methods in which they will comply with their legal duty to provide for basic consumer safety. Such specific methods that are subject to consideration include the following:

1. Methods relating to the growing conditions under which the cannabis the facility dispenses produce Batches that are free of mold, disease, heavy metals, etc.;
2. Methods by which UV exposure or other non-toxic treatment mechanisms are utilized to guarantee a product safe for patient use;
3. Methods by which Batches are tested for contaminants, and the means and frequency by which this information is provided to the Public Administrator;
4. Methods by which Applicants, to the best of their ability, intend to monitor cannabis they process or dispense so that substances not allowed by the Organic Foods Production Act (OFPA) of 1990 and regulations promulgated there under are not present in or on such cannabis. Such monitoring may include the curing or treating of Batches to eliminate any such substances prior to packaging; and
5. Methods which Applicants will employ to select cannabis from suppliers they know or reasonably believe avoid or reduce the use of pesticides in their cultivation activities.

SCORING SYSTEM

Joint Work Product of Law Offices of Marc L. Terbeek and UFCW Local 5

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- A. **Responsiveness (Pass/Fail):** A Pass/Fail evaluation will be applied to determine responsiveness relative to meeting the requirements of this MBAP. Failing Applicants will be disqualified from further participation or consideration. All passing Applicants will be awarded 20 points toward their point total.
- B. **Business Plan (700 points):** The business plan will be evaluated based on responsiveness to items identified in MBAP, capacity to perform the work; familiarity with the difficulties, uncertainties, and risks associated with the work and knowledge of the staff qualifications necessary to the performance of the work, Furthermore, to the extent possible, bidders will be evaluated based on a demonstrated capacity to work quickly, efficiently, reliably, and with the ability to demonstrate confidence in their product vision and implementation of a dispensary, appropriateness of business in surrounding community, ability to clearly articulate business model, and conformance with local ordinances and California State Law,
- C. **Capitalization (200 points):** An evaluation will be made of the overall (a) fiscal health of the proposal; (b) experience and background of organization members in operating successful business ventures; (c) letters of credit and performance bond commitment in an amount sufficient to fulfill the commitments detailed in the overall plan; (d) feasibility and viability of plan from an economic perspective.
- D. **Community Benefits Plan (100 points):** Applicants must demonstrate how they intend to provide their local community with community benefits and mitigate any negative impacts/nuisance that the facility's existence may cause. Applicants who demonstrate a commitment to their community and to improving the quality of life of their neighbors should receive points for the sustainable practices they plan to implement.
- E. **Bonus/Preference Points for Submissions that address "Optional Elements:"** In addition to the points awarded to proposals that contain all information addressing all elements required by this MBAP, supplemental points may be awarded for proposals that provide information responsive to the other elements enumerated herein, as follows:
 - 1. **Labor & Employment (250 points):** Applicants exhibiting a commitment to heightened pay and benefits practices, including recognition of the collective bargaining rights, will be awarded bonus points as follows:
 - (a) Providing compensation to and opportunities for continuing education and training of employees/staff – 10 points;
 - ?, (b) Being a "card check-neutral" facility – 20 points;
 - (c) Having pre-existing recognition from a certified labor union – 50 points;

- (d) Being party to a collective bargaining agreement with a certified labor union – 50 points;
 - (e) Providing a “living wage” to facility staff and employees – 20 points;
 - (f) Being a locally owned Medical Cannabis Dispensary as described above – 50 points;
 - (g) Being a locally owned Medical Cannabis Cooperative or Collective as described above – 50 points.
2. Environmental (180 points): Bonus points will be awarded based on the three categories: a) Energy, Building & Climate; b) Water and c) Materials & Waste, with ten (10) points awarded for a satisfactory demonstration of compliance with each subcategory enumerated thereunder;
 3. Product Safety (200 points): Applicants will be awarded bonus points based on their ability to show how they will produce cannabis without pesticides, free of mold, bacteria, and other harmful substances, how they intend to test the product for safety, and what steps they will take to make sure their product will be safe for consumption. Forty (40) points shall be awarded for a satisfactory demonstration of compliance with each subcategory enumerated thereunder.
- F. Written Examination (100 points): The examination will be scored on a 100 point system, with a maximum of 100 points to be awarded. Each category will be reviewed by the Special Business Permit Assistant to the Public Administrator, and their respective scores will be added together to provide actual score for the section.. The maximum score available for an Applicant, based on categories, would be 1650 points before taking the written examination. The examination will be taken prior to the selection of the Applicants for whom a Public Hearing will be held to determine conditions and hear concerns or consideration from residents.

NOTICE OF DECISION

- A. Successful applicants will be notified, in writing on or before a date certain to be published by the Public Administrator, that they have been awarded a Permit. All applicants who fail to proceed to Phase II to will be notified in writing within 10 days of the Public Administrator's decision, and will be informed of their rank and total score. All applicants that proceed to Phase II but are unsuccessful will be notified in writing within 10 days of the council's decision along with their rank and score.
- B. All Permittees will be required, as a condition of their permit, to abide by a timeline of deliverables as proscribed by Permit Staff. Failure to comply with the timeline and or meet a

deliverable may result in immediate revocation of permit. Deliverables can include, but may not be limited to:

1. A schedule by when construction plans, if any are required, will be submitted to the appropriate department;
2. The date by which construction permits, if any, must be pulled;
3. The date by which any required construction must be started;
4. The date by which any required construction will be completed;
5. The date by which Fire Alarm Systems will be installed and functional;
6. The date which Security Measures will be installed and deployed; and
7. Other measures as may be determined so that staff continues to see movement towards commencing operations pursuant to the issued Permit.

FEES

An Annual Permit Fee to be published by the Public Administrator is required to be paid in full prior to the initial issuance of the Permit, and within five (5) calendar days of the annual renewal due date, as set forth in the permit. Failure to timely pay the renewal fee will be a basis for immediate revocation of the permit.

RESERVATION OF RIGHTS

The Public Administrator reserves the right to reject any or all proposals, whether or not minimum qualifications are met, and to modify, postpone, or cancel the MBAP without liability obligation, or commitment to any party, firm, or organization. In addition, the Public Administrator reserves the right to request and obtain additional information from any Applicant as is necessary and helpful to the process outlined in this MBAP.



**GUIDELINES FOR THE SECURITY AND NON-DIVERSION
OF MARIJUANA GROWN FOR MEDICAL USE**

August 2008

In 1996, California voters approved an initiative that exempted certain patients and their primary caregivers from criminal liability under state law for the possession and cultivation of marijuana. In 2003, the Legislature enacted additional legislation relating to medical marijuana. One of those statutes requires the Attorney General to adopt “guidelines to ensure the security and nondiversion of marijuana grown for medical use.” (Health & Saf. Code, § 11362.81(d).¹) To fulfill this mandate, this Office is issuing the following guidelines to (1) ensure that marijuana grown for medical purposes remains secure and does not find its way to non-patients or illicit markets, (2) help law enforcement agencies perform their duties effectively and in accordance with California law, and (3) help patients and primary caregivers understand how they may cultivate, transport, possess, and use medical marijuana under California law.

I. SUMMARY OF APPLICABLE LAW

A. California Penal Provisions Relating to Marijuana.

The possession, sale, cultivation, or transportation of marijuana is ordinarily a crime under California law. (See, e.g., § 11357 [possession of marijuana is a misdemeanor]; § 11358 [cultivation of marijuana is a felony]; Veh. Code, § 23222 [possession of less than 1 oz. of marijuana while driving is a misdemeanor]; § 11359 [possession with intent to sell any amount of marijuana is a felony]; § 11360 [transporting, selling, or giving away marijuana in California is a felony; under 28.5 grams is a misdemeanor]; § 11361 [selling or distributing marijuana to minors, or using a minor to transport, sell, or give away marijuana, is a felony].)

B. Proposition 215 - The Compassionate Use Act of 1996.

On November 5, 1996, California voters passed Proposition 215, which decriminalized the cultivation and use of marijuana by seriously ill individuals upon a physician’s recommendation. (§ 11362.5.) Proposition 215 was enacted to “ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person’s health would benefit from the use of marijuana,” and to “ensure that patients and their primary caregivers who obtain and use marijuana for

¹ Unless otherwise noted, all statutory references are to the Health & Safety Code.

medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction.” (§ 11362.5(b)(1)(A)-(B).)

The Act further states that “Section 11357, relating to the possession of marijuana, and Section 11358, relating to the cultivation of marijuana, shall not apply to a patient, or to a patient’s primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or verbal recommendation or approval of a physician.” (§ 11362.5(d).) Courts have found an implied defense to the transportation of medical marijuana when the “quantity transported and the method, timing and distance of the transportation are reasonably related to the patient’s current medical needs.” (*People v. Trippet* (1997) 56 Cal.App.4th 1532, 1551.)

C. Senate Bill 420 - The Medical Marijuana Program Act.

On January 1, 2004, Senate Bill 420, the Medical Marijuana Program Act (MMP), became law. (§§ 11362.7-11362.83.) The MMP, among other things, requires the California Department of Public Health (DPH) to establish and maintain a program for the voluntary registration of qualified medical marijuana patients and their primary caregivers through a statewide identification card system. Medical marijuana identification cards are intended to help law enforcement officers identify and verify that cardholders are able to cultivate, possess, and transport certain amounts of marijuana without being subject to arrest under specific conditions. (§§ 11362.71(e), 11362.78.)

It is mandatory that all counties participate in the identification card program by (a) providing applications upon request to individuals seeking to join the identification card program; (b) processing completed applications; (c) maintaining certain records; (d) following state implementation protocols; and (e) issuing DPH identification cards to approved applicants and designated primary caregivers. (§ 11362.71(b).)

Participation by patients and primary caregivers in the identification card program is voluntary. However, because identification cards offer the holder protection from arrest, are issued only after verification of the cardholder’s status as a qualified patient or primary caregiver, and are immediately verifiable online or via telephone, they represent one of the best ways to ensure the security and non-diversion of marijuana grown for medical use.

In addition to establishing the identification card program, the MMP also defines certain terms, sets possession guidelines for cardholders, and recognizes a qualified right to collective and cooperative cultivation of medical marijuana. (§§ 11362.7, 11362.77, 11362.775.)

D. Taxability of Medical Marijuana Transactions.

In February 2007, the California State Board of Equalization (BOE) issued a Special Notice confirming its policy of taxing medical marijuana transactions, as well as its requirement that businesses engaging in such transactions hold a Seller’s Permit. (<http://www.boe.ca.gov/news/pdf/medseller2007.pdf>.) According to the Notice, having a Seller’s Permit does not allow individuals to make unlawful sales, but instead merely provides a way to remit any sales and use taxes due. BOE further clarified its policy in a

June 2007 Special Notice that addressed several frequently asked questions concerning taxation of medical marijuana transactions. (<http://www.boe.ca.gov/news/pdf/173.pdf>.)

E. Medical Board of California.

The Medical Board of California licenses, investigates, and disciplines California physicians. (Bus. & Prof. Code, § 2000, et seq.) Although state law prohibits punishing a physician simply for recommending marijuana for treatment of a serious medical condition (§ 11362.5(c)), the Medical Board can and does take disciplinary action against physicians who fail to comply with accepted medical standards when recommending marijuana. In a May 13, 2004 press release, the Medical Board clarified that these accepted standards are the same ones that a reasonable and prudent physician would follow when recommending or approving any medication. They include the following:

1. Taking a history and conducting a good faith examination of the patient;
2. Developing a treatment plan with objectives;
3. Providing informed consent, including discussion of side effects;
4. Periodically reviewing the treatment's efficacy;
5. Consultations, as necessary; and
6. Keeping proper records supporting the decision to recommend the use of medical marijuana.

(http://www.mbc.ca.gov/board/media/releases_2004_05-13_marijuana.html.)

Complaints about physicians should be addressed to the Medical Board (1-800-633-2322 or www.mbc.ca.gov), which investigates and prosecutes alleged licensing violations in conjunction with the Attorney General's Office.

F. The Federal Controlled Substances Act.

Adopted in 1970, the Controlled Substances Act (CSA) established a federal regulatory system designed to combat recreational drug abuse by making it unlawful to manufacture, distribute, dispense, or possess any controlled substance. (21 U.S.C. § 801, et seq.; *Gonzales v. Oregon* (2006) 546 U.S. 243, 271-273.) The CSA reflects the federal government's view that marijuana is a drug with "no currently accepted medical use." (21 U.S.C. § 812(b)(1).) Accordingly, the manufacture, distribution, or possession of marijuana is a federal criminal offense. (*Id.* at §§ 841(a)(1), 844(a).)

The incongruity between federal and state law has given rise to understandable confusion, but no legal conflict exists merely because state law and federal law treat marijuana differently. Indeed, California's medical marijuana laws have been challenged unsuccessfully in court on the ground that they are preempted by the CSA. (*County of San Diego v. San Diego NORML* (July 31, 2008) --- Cal.Rptr.3d ---, 2008 WL 2930117.) Congress has provided that states are free to regulate in the area of controlled substances, including marijuana, provided that state law does not positively conflict with the CSA. (21 U.S.C. § 903.) Neither Proposition 215, nor the MMP, conflict with the CSA because, in adopting these laws, California did not "legalize" medical marijuana, but instead exercised the state's reserved powers to not punish certain marijuana offenses under state law when a physician has recommended its use to treat a serious medical condition. (See *City of Garden Grove v. Superior Court (Kha)* (2007) 157 Cal.App.4th 355, 371-373, 381-382.)

In light of California's decision to remove the use and cultivation of physician-recommended marijuana from the scope of the state's drug laws, this Office recommends that state and local law enforcement officers not arrest individuals or seize marijuana under federal law when the officer determines from the facts available that the cultivation, possession, or transportation is permitted under California's medical marijuana laws.

II. DEFINITIONS

A. **Physician's Recommendation:** Physicians may not prescribe marijuana because the federal Food and Drug Administration regulates prescription drugs and, under the CSA, marijuana is a Schedule I drug, meaning that it has no recognized medical use. Physicians may, however, lawfully issue a verbal or written recommendation under California law indicating that marijuana would be a beneficial treatment for a serious medical condition. (§ 11362.5(d); *Conant v. Walters* (9th Cir. 2002) 309 F.3d 629, 632.)

B. **Primary Caregiver:** A primary caregiver is a person who is designated by a qualified patient and "has consistently assumed responsibility for the housing, health, or safety" of the patient. (§ 11362.5(e).) California courts have emphasized the consistency element of the patient-caregiver relationship. Although a "primary caregiver who consistently grows and supplies . . . medicinal marijuana for a section 11362.5 patient is serving a health need of the patient," someone who merely maintains a source of marijuana does not automatically become the party "who has consistently assumed responsibility for the housing, health, or safety" of that purchaser. (*People ex rel. Lungren v. Peron* (1997) 59 Cal.App.4th 1383, 1390, 1400.) A person may serve as primary caregiver to "more than one" patient, provided that the patients and caregiver all reside in the same city or county. (§ 11362.7(d)(2).) Primary caregivers also may receive certain compensation for their services. (§ 11362.765(c) ["A primary caregiver who receives compensation for actual expenses, including reasonable compensation incurred for services provided . . . to enable [a patient] to use marijuana under this article, or for payment for out-of-pocket expenses incurred in providing those services, or both, . . . shall not, on the sole basis of that fact, be subject to prosecution" for possessing or transporting marijuana].)

C. **Qualified Patient:** A qualified patient is a person whose physician has recommended the use of marijuana to treat a serious illness, including cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief. (§ 11362.5(b)(1)(A).)

D. **Recommending Physician:** A recommending physician is a person who (1) possesses a license in good standing to practice medicine in California; (2) has taken responsibility for some aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient; and (3) has complied with accepted medical standards (as described by the Medical Board of California in its May 13, 2004 press release) that a reasonable and prudent physician would follow when recommending or approving medical marijuana for the treatment of his or her patient.

III. GUIDELINES REGARDING INDIVIDUAL QUALIFIED PATIENTS AND PRIMARY CAREGIVERS

A. State Law Compliance Guidelines.

1. **Physician Recommendation:** Patients must have a written or verbal recommendation for medical marijuana from a licensed physician. (§ 11362.5(d).)

2. **State of California Medical Marijuana Identification Card:** Under the MMP, qualified patients and their primary caregivers may voluntarily apply for a card issued by DPH identifying them as a person who is authorized to use, possess, or transport marijuana grown for medical purposes. To help law enforcement officers verify the cardholder's identity, each card bears a unique identification number, and a verification database is available online (www.calmmp.ca.gov). In addition, the cards contain the name of the county health department that approved the application, a 24-hour verification telephone number, and an expiration date. (§§ 11362.71(a); 11362.735(a)(3)-(4); 11362.745.)

3. **Proof of Qualified Patient Status:** Although verbal recommendations are technically permitted under Proposition 215, patients should obtain and carry written proof of their physician recommendations to help them avoid arrest. A state identification card is the best form of proof, because it is easily verifiable and provides immunity from arrest if certain conditions are met (see section III.B.4, below). The next best forms of proof are a city- or county-issued patient identification card, or a written recommendation from a physician.

4. Possession Guidelines:

a) **MMP:**² Qualified patients and primary caregivers who possess a state-issued identification card may possess 8 oz. of dried marijuana, and may maintain no more than 6 mature or 12 immature plants per qualified patient. (§ 11362.77(a).) But, if "a qualified patient or primary caregiver has a doctor's recommendation that this quantity does not meet the qualified patient's medical needs, the qualified patient or primary caregiver may possess an amount of marijuana consistent with the patient's needs." (§ 11362.77(b).) Only the dried mature processed flowers or buds of the female cannabis plant should be considered when determining allowable quantities of medical marijuana for purposes of the MMP. (§ 11362.77(d).)

b) **Local Possession Guidelines:** Counties and cities may adopt regulations that allow qualified patients or primary caregivers to possess

² On May 22, 2008, California's Second District Court of Appeal severed Health & Safety Code § 11362.77 from the MMP on the ground that the statute's possession guidelines were an unconstitutional amendment of Proposition 215, which does not quantify the marijuana a patient may possess. (See *People v. Kelly* (2008) 163 Cal.App.4th 124, 77 Cal.Rptr.3d 390.) The Third District Court of Appeal recently reached a similar conclusion in *People v. Phomphakdy* (July 31, 2008) --- Cal.Rptr.3d ---, 2008 WL 2931369. The California Supreme Court has granted review in *Kelly* and the Attorney General intends to seek review in *Phomphakdy*.

medical marijuana in amounts that exceed the MMP's possession guidelines. (§ 11362.77(c).)

c) **Proposition 215:** Qualified patients claiming protection under Proposition 215 may possess an amount of marijuana that is “reasonably related to [their] current medical needs.” (*People v. Trippet* (1997) 56 Cal.App.4th 1532, 1549.)

B. Enforcement Guidelines.

1. **Location of Use:** Medical marijuana may not be smoked (a) where smoking is prohibited by law, (b) at or within 1000 feet of a school, recreation center, or youth center (unless the medical use occurs within a residence), (c) on a school bus, or (d) in a moving motor vehicle or boat. (§ 11362.79.)

2. **Use of Medical Marijuana in the Workplace or at Correctional Facilities:** The medical use of marijuana need not be accommodated in the workplace, during work hours, or at any jail, correctional facility, or other penal institution. (§ 11362.785(a); *Ross v. RagingWire Telecomms., Inc.* (2008) 42 Cal.4th 920, 933 [under the Fair Employment and Housing Act, an employer may terminate an employee who tests positive for marijuana use].)

3. **Criminal Defendants, Probationers, and Parolees:** Criminal defendants and probationers may request court approval to use medical marijuana while they are released on bail or probation. The court's decision and reasoning must be stated on the record and in the minutes of the court. Likewise, parolees who are eligible to use medical marijuana may request that they be allowed to continue such use during the period of parole. The written conditions of parole must reflect whether the request was granted or denied. (§ 11362.795.)

4. **State of California Medical Marijuana Identification Cardholders:** When a person invokes the protections of Proposition 215 or the MMP and he or she possesses a state medical marijuana identification card, officers should:

a) Review the identification card and verify its validity either by calling the telephone number printed on the card, or by accessing DPH's card verification website (<http://www.calmmp.ca.gov>); and

b) If the card is valid and not being used fraudulently, there are no other indicia of illegal activity (weapons, illicit drugs, or excessive amounts of cash), and the person is within the state or local possession guidelines, the individual should be released and the marijuana should not be seized. Under the MMP, “no person or designated primary caregiver in possession of a valid state medical marijuana identification card shall be subject to arrest for possession, transportation, delivery, or cultivation of medical marijuana.” (§ 11362.71(e).) Further, a “state or local law enforcement agency or officer shall not refuse to accept an identification card issued by the department unless the state or local law enforcement agency or officer

has reasonable cause to believe that the information contained in the card is false or fraudulent, or the card is being used fraudulently.” (§ 11362.78.)

5. **Non-Cardholders:** When a person claims protection under Proposition 215 or the MMP and only has a locally-issued (i.e., non-state) patient identification card, or a written (or verbal) recommendation from a licensed physician, officers should use their sound professional judgment to assess the validity of the person’s medical-use claim:

a) Officers need not abandon their search or investigation. The standard search and seizure rules apply to the enforcement of marijuana-related violations. Reasonable suspicion is required for detention, while probable cause is required for search, seizure, and arrest.

b) Officers should review any written documentation for validity. It may contain the physician’s name, telephone number, address, and license number.

c) If the officer reasonably believes that the medical-use claim is valid based upon the totality of the circumstances (including the quantity of marijuana, packaging for sale, the presence of weapons, illicit drugs, or large amounts of cash), and the person is within the state or local possession guidelines or has an amount consistent with their current medical needs, the person should be released and the marijuana should not be seized.

d) Alternatively, if the officer has probable cause to doubt the validity of a person’s medical marijuana claim based upon the facts and circumstances, the person may be arrested and the marijuana may be seized. It will then be up to the person to establish his or her medical marijuana defense in court.

e) Officers are not obligated to accept a person’s claim of having a verbal physician’s recommendation that cannot be readily verified with the physician at the time of detention.

6. **Exceeding Possession Guidelines:** If a person has what appears to be valid medical marijuana documentation, but exceeds the applicable possession guidelines identified above, all marijuana may be seized.

7. **Return of Seized Medical Marijuana:** If a person whose marijuana is seized by law enforcement successfully establishes a medical marijuana defense in court, or the case is not prosecuted, he or she may file a motion for return of the marijuana. If a court grants the motion and orders the return of marijuana seized incident to an arrest, the individual or entity subject to the order must return the property. State law enforcement officers who handle controlled substances in the course of their official duties are immune from liability under the CSA. (21 U.S.C. § 885(d).) Once the marijuana is returned, federal authorities are free to exercise jurisdiction over it. (21 U.S.C. §§ 812(c)(10), 844(a); *City of Garden Grove v. Superior Court (Kha)* (2007) 157 Cal.App.4th 355, 369, 386, 391.)

IV. GUIDELINES REGARDING COLLECTIVES AND COOPERATIVES

Under California law, medical marijuana patients and primary caregivers may “associate within the State of California in order collectively or cooperatively to cultivate marijuana for medical purposes.” (§ 11362.775.) The following guidelines are meant to apply to qualified patients and primary caregivers who come together to collectively or cooperatively cultivate physician-recommended marijuana.

A. Business Forms: Any group that is collectively or cooperatively cultivating and distributing marijuana for medical purposes should be organized and operated in a manner that ensures the security of the crop and safeguards against diversion for non-medical purposes. The following are guidelines to help cooperatives and collectives operate within the law, and to help law enforcement determine whether they are doing so.

1. **Statutory Cooperatives:** A cooperative must file articles of incorporation with the state and conduct its business for the mutual benefit of its members. (Corp. Code, § 12201, 12300.) No business may call itself a “cooperative” (or “co-op”) unless it is properly organized and registered as such a corporation under the Corporations or Food and Agricultural Code. (*Id.* at § 12311(b).) Cooperative corporations are “democratically controlled and are not organized to make a profit for themselves, as such, or for their members, as such, but primarily for their members as patrons.” (*Id.* at § 12201.) The earnings and savings of the business must be used for the general welfare of its members or equitably distributed to members in the form of cash, property, credits, or services. (*Ibid.*) Cooperatives must follow strict rules on organization, articles, elections, and distribution of earnings, and must report individual transactions from individual members each year. (See *id.* at § 12200, et seq.) Agricultural cooperatives are likewise nonprofit corporate entities “since they are not organized to make profit for themselves, as such, or for their members, as such, but only for their members as producers.” (Food & Agric. Code, § 54033.) Agricultural cooperatives share many characteristics with consumer cooperatives. (See, e.g., *id.* at § 54002, et seq.) Cooperatives should not purchase marijuana from, or sell to, non-members; instead, they should only provide a means for facilitating or coordinating transactions between members.

2. **Collectives:** California law does not define collectives, but the dictionary defines them as “a business, farm, etc., jointly owned and operated by the members of a group.” (*Random House Unabridged Dictionary*; Random House, Inc. © 2006.) Applying this definition, a collective should be an organization that merely facilitates the collaborative efforts of patient and caregiver members – including the allocation of costs and revenues. As such, a collective is not a statutory entity, but as a practical matter it might have to organize as some form of business to carry out its activities. The collective should not purchase marijuana from, or sell to, non-members; instead, it should only provide a means for facilitating or coordinating transactions between members.

B. Guidelines for the Lawful Operation of a Cooperative or Collective:

Collectives and cooperatives should be organized with sufficient structure to ensure security, non-diversion of marijuana to illicit markets, and compliance with all state and local laws. The following are some suggested guidelines and practices for operating collective growing operations to help ensure lawful operation.

1. **Non-Profit Operation:** Nothing in Proposition 215 or the MMP authorizes collectives, cooperatives, or individuals to profit from the sale or distribution of marijuana. (See, e.g., § 11362.765(a) [“nothing in this section shall authorize . . . any individual or group to cultivate or distribute marijuana for profit”]).

2. **Business Licenses, Sales Tax, and Seller’s Permits:** The State Board of Equalization has determined that medical marijuana transactions are subject to sales tax, regardless of whether the individual or group makes a profit, and those engaging in transactions involving medical marijuana must obtain a Seller’s Permit. Some cities and counties also require dispensing collectives and cooperatives to obtain business licenses.

3. **Membership Application and Verification:** When a patient or primary caregiver wishes to join a collective or cooperative, the group can help prevent the diversion of marijuana for non-medical use by having potential members complete a written membership application. The following application guidelines should be followed to help ensure that marijuana grown for medical use is not diverted to illicit markets:

a) Verify the individual’s status as a qualified patient or primary caregiver. Unless he or she has a valid state medical marijuana identification card, this should involve personal contact with the recommending physician (or his or her agent), verification of the physician’s identity, as well as his or her state licensing status. Verification of primary caregiver status should include contact with the qualified patient, as well as validation of the patient’s recommendation. Copies should be made of the physician’s recommendation or identification card, if any;

b) Have the individual agree not to distribute marijuana to non-members;

c) Have the individual agree not to use the marijuana for other than medical purposes;

d) Maintain membership records on-site or have them reasonably available;

e) Track when members’ medical marijuana recommendation and/or identification cards expire; and

f) Enforce conditions of membership by excluding members whose identification card or physician recommendation are invalid or have expired, or who are caught diverting marijuana for non-medical use.

4. **Collectives Should Acquire, Possess, and Distribute Only Lawfully Cultivated Marijuana:** Collectives and cooperatives should acquire marijuana only from their constituent members, because only marijuana grown by a qualified patient or his or her primary caregiver may lawfully be transported by, or distributed to, other members of a collective or cooperative. (§§ 11362.765, 11362.775.) The collective or cooperative may then allocate it to other members of the group. Nothing allows marijuana to be purchased from outside the collective or cooperative for distribution to its members. Instead, the cycle should be a closed-circuit of marijuana cultivation and consumption with no purchases or sales to or from non-members. To help prevent diversion of medical marijuana to non-medical markets, collectives and cooperatives should document each member's contribution of labor, resources, or money to the enterprise. They also should track and record the source of their marijuana.

5. **Distribution and Sales to Non-Members are Prohibited:** State law allows primary caregivers to be reimbursed for certain services (including marijuana cultivation), but nothing allows individuals or groups to sell or distribute marijuana to non-members. Accordingly, a collective or cooperative may not distribute medical marijuana to any person who is not a member in good standing of the organization. A dispensing collective or cooperative may credit its members for marijuana they provide to the collective, which it may then allocate to other members. (§ 11362.765(c).) Members also may reimburse the collective or cooperative for marijuana that has been allocated to them. Any monetary reimbursement that members provide to the collective or cooperative should only be an amount necessary to cover overhead costs and operating expenses.

6. **Permissible Reimbursements and Allocations:** Marijuana grown at a collective or cooperative for medical purposes may be:

- a) Provided free to qualified patients and primary caregivers who are members of the collective or cooperative;
- b) Provided in exchange for services rendered to the entity;
- c) Allocated based on fees that are reasonably calculated to cover overhead costs and operating expenses; or
- d) Any combination of the above.

7. **Possession and Cultivation Guidelines:** If a person is acting as primary caregiver to more than one patient under section 11362.7(d)(2), he or she may aggregate the possession and cultivation limits for each patient. For example, applying the MMP's basic possession guidelines, if a caregiver is responsible for three patients, he or she may possess up to 24 oz. of marijuana (8 oz. per patient) and may grow 18 mature or 36 immature plants. Similarly, collectives and cooperatives may cultivate and transport marijuana in aggregate amounts tied to its membership numbers. Any patient or primary caregiver exceeding individual possession guidelines should have supporting records readily available when:

- a) Operating a location for cultivation;
- b) Transporting the group's medical marijuana; and
- c) Operating a location for distribution to members of the collective or cooperative.

8. **Security:** Collectives and cooperatives should provide adequate security to ensure that patients are safe and that the surrounding homes or businesses are not negatively impacted by nuisance activity such as loitering or crime. Further, to maintain security, prevent fraud, and deter robberies, collectives and cooperatives should keep accurate records and follow accepted cash handling practices, including regular bank runs and cash drops, and maintain a general ledger of cash transactions.

C. **Enforcement Guidelines:** Depending upon the facts and circumstances, deviations from the guidelines outlined above, or other indicia that marijuana is not for medical use, may give rise to probable cause for arrest and seizure. The following are additional guidelines to help identify medical marijuana collectives and cooperatives that are operating outside of state law.

1. **Storefront Dispensaries:** Although medical marijuana “dispensaries” have been operating in California for years, dispensaries, as such, are not recognized under the law. As noted above, the only recognized group entities are cooperatives and collectives. (§ 11362.775.) It is the opinion of this Office that a properly organized and operated collective or cooperative that dispenses medical marijuana through a storefront may be lawful under California law, but that dispensaries that do not substantially comply with the guidelines set forth in sections IV(A) and (B), above, are likely operating outside the protections of Proposition 215 and the MMP, and that the individuals operating such entities may be subject to arrest and criminal prosecution under California law. For example, dispensaries that merely require patients to complete a form summarily designating the business owner as their primary caregiver – and then offering marijuana in exchange for cash “donations” – are likely unlawful. (*Peron, supra*, 59 Cal.App.4th at p. 1400 [cannabis club owner was not the primary caregiver to thousands of patients where he did not consistently assume responsibility for their housing, health, or safety].)

2. **Indicia of Unlawful Operation:** When investigating collectives or cooperatives, law enforcement officers should be alert for signs of mass production or illegal sales, including (a) excessive amounts of marijuana, (b) excessive amounts of cash, (c) failure to follow local and state laws applicable to similar businesses, such as maintenance of any required licenses and payment of any required taxes, including sales taxes, (d) weapons, (e) illicit drugs, (f) purchases from, or sales or distribution to, non-members, or (g) distribution outside of California.

State & County QuickFacts

El Dorado County, California

People QuickFacts	El Dorado	
	County	California
Population, 2012 estimate	180,561	38,041,430
Population, 2010 (April 1) estimates base	181,058	37,253,956
Population, percent change, April 1, 2010 to July 1, 2012	-0.3%	2.1%
Population, 2010	181,058	37,253,956
Persons under 5 years, percent, 2012	4.8%	6.7%
Persons under 18 years, percent, 2012	21.6%	24.3%
Persons 65 years and over, percent, 2012	16.4%	12.1%
Female persons, percent, 2012	50.0%	50.3%

White alone, percent, 2012 (a)	90.4%	73.7%
Black or African American alone, percent, 2012 (a)	0.9%	6.6%
American Indian and Alaska Native alone, percent, 2012 (a)	1.3%	1.7%
Asian alone, percent, 2012 (a)	3.8%	13.9%
Native Hawaiian and Other Pacific Islander alone, percent, 2012 (a)	0.2%	0.5%
Two or More Races, percent, 2012	3.4%	3.6%
Hispanic or Latino, percent, 2012 (b)	12.2%	38.2%
White alone, not Hispanic or Latino, percent, 2012	79.6%	39.4%

Living in same house 1 year & over, percent, 2007-2011	86.5%	84.2%
Foreign born persons, percent, 2007-2011	8.4%	27.2%
Language other than English spoken at home, percent age 5+, 2007-2011	12.4%	43.2%
High school graduate or higher, percent of persons age 25+, 2007-2011	93.0%	80.8%
Bachelor's degree or higher, percent of persons age 25+, 2007-2011	30.8%	30.2%
Veterans, 2007-2011	17,831	1,997,566
Mean travel time to work (minutes), workers age 16+, 2007-2011	29.4	27.0

Housing units, 2011	88,774	13,720,462
Homeownership rate, 2007-2011	75.3%	56.7%
Housing units in multi-unit structures, percent, 2007-2011	12.1%	30.8%
Median value of owner-occupied housing units, 2007-2011	\$409,400	\$421,600
Households, 2007-2011	68,812	12,433,172

Persons per household, 2007-2011	2.60	2.91
Per capita money income in the past 12 months (2011 dollars), 2007-2011	\$34,385	\$29,634
Median household income, 2007-2011	\$68,815	\$61,632
Persons below poverty level, percent, 2007-2011	8.4%	14.4%

Business QuickFacts	El Dorado	
	County	California
Private nonfarm establishments, 2011	4,182	849,316 ¹
Private nonfarm employment, 2011	39,870	12,698,427 ¹
Private nonfarm employment, percent change, 2010-2011	-2.8%	1.3% ¹
Nonemployer establishments, 2011	15,156	2,887,014

Total number of firms, 2007	21,265	3,425,510
Black-owned firms, percent, 2007	S	4.0%
American Indian- and Alaska Native-owned firms, percent, 2007	S	1.3%
Asian-owned firms, percent, 2007	2.4%	14.9%
Native Hawaiian and Other Pacific Islander-owned firms, percent, 2007	S	0.3%
Hispanic-owned firms, percent, 2007	6.5%	16.5%
Women-owned firms, percent, 2007	26.9%	30.3%

Manufacturers shipments, 2007 (\$1000)	662,228	491,372,092
Merchant wholesaler sales, 2007 (\$1000)	363,644	598,456,486
Retail sales, 2007 (\$1000)	1,619,711	455,032,270
Retail sales per capita, 2007	\$9,216	\$12,561
Accommodation and food services sales, 2007 (\$1000)	301,718	80,852,787
Building permits, 2012	261	58,549
Geography QuickFacts	El Dorado	California
	County	
Land area in square miles, 2010	1,707.88	155,779.22
Persons per square mile, 2010	106.0	239.1
FIPS Code	017	06
Metropolitan or Micropolitan Statistical Area	Sacramento-Arden-Arcade-Roseville, CA Metro Area	

1: Includes data not distributed by county.

(a) Includes persons reporting only one race.

(b) Hispanics may be of any race, so also are included in applicable race categories.

D: Suppressed to avoid disclosure of confidential information

F: Fewer than 25 firms

FN: Footnote on this item for this area in place of data

NA: Not available

S: Suppressed; does not meet publication standards

X: Not applicable

Z: Value greater than zero but less than half unit of measure shown

Source U.S. Census Bureau: State and County QuickFacts. Data derived from Population Estimates, American Community Survey, Census of Population and Housing, State and County Housing Unit Estimates, County Business Patterns, Nonemployer Statistics, Economic Census, Survey of Business Owners, Building Permits
Last Revised: Thursday, 27-Jun-2013 14:21:25 EDT

CALIFORNIANS TO REGULATE MEDICAL MARIJUANA

PRINCIPLES OF SENSIBLE MEDICAL CANNABIS REGULATION

Californians to Regulate Medical Marijuana (CRMM), a coalition of patients, cultivators, workers, and other medical cannabis stakeholders, strongly supports sensible regulation for medical cannabis in California. Research and experience show that effective regulation preserves safe and dignified access to medicine, while mitigating adverse impacts on our communities. California voters directed their elected officials "to implement a plan for the safe and affordable distribution of marijuana" when they approved Proposition 215 in 1996, but state lawmakers have yet to adopt a comprehensive regulatory program. In response to divergent interpretations of the law and inconsistent enforcement across the state, patients, local governments, the California Attorney General, and others are calling on the state legislature to finally heed the voters' call.

Regulation makes sense for everyone in California. These principles were developed in consultation with the patients, cultivators, workers, and other medical cannabis stakeholders who comprise our coalition. We are presenting them to lawmakers to illustrate what we would like to see in current and future legislation. These basic principles define a regulatory framework that will benefit patients and their communities; they also describe sensible regulations that will prevent abuse, ensure accountability, save law enforcement resources, generate tax revenue, and create jobs.

Members of CRMM include patients, primary caregivers, Americans for Safe Access, United Food and Commercial Workers, California NORML, the Emerald Growers Association, and the Coalition for Cannabis Policy Reform. We strongly support legislation that better regulates medical cannabis activity in California in the spirit of these principles. For more information, contact don@safeaccessnow.org.

1. Individual patients and their primary caregivers should be allowed to cultivate their own medicine, individually or collectively, so long as the activity is non-commercial in nature.
2. State regulations should recognize the environmental and economic advantages of outdoor cultivation, and protect the right of individual patients and their primary caregivers to grow medicine outdoors and in green houses.
3. Patients should have safe and dignified access to medicine in every community in the state. State regulations should encourage communities to provide access through local dispensaries, or where this is unfeasible, through regulated delivery services.
4. Medical cannabis, including edible preparations, should be tested for biological and chemical contaminants to protect patients' welfare and for cannabinoid content as well. Testing should be conducted in accordance with accepted professional standards for the herbal products industry.
5. Medical cannabis cooperatives, collectives, and businesses should be required to operate in accordance with the standards published by the American Herbal Products Association in January of 2013. See www.AmericansForSafeAccess.org/downloads/AHPA_Distribution.pdf
6. Taxation of medical cannabis should be eliminated or kept at levels consistent with over-the-counter and herbal medicines. Excessive taxation ("sin tax") is harmful to legal patients.
7. The state should explicitly authorize legally organized and operated patients' cooperatives and collectives, as described by the California Attorney General, to receive compensation for providing medicine to members. See www.AmericansForSafeAccess.org/downloads/AG_Guidelines.pdf
8. State and local regulation of medical cannabis should facilitate, rather than roll back, access for legitimate patients. Onerous zoning, land use, and licensing restrictions should be discouraged to the extent possible under state law.
9. State regulation of medical cannabis should be administered as a health care and consumer protection issue, not as a criminal justice issue or in a manner similar to alcohol or tobacco.
10. Legal patients should be protected from discrimination in employment and parental rights under state law and enjoy equal access to housing and health care.
11. The legislature should remove medical cannabis from the schedules of controlled substances under the California Uniform Controlled Substances Act or reschedule it to reflect its proven safety and currently accepted medical use.

Public Comment

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Charlotte's Web Strain of Marijuana Relieves 6-Year-Old's Seizures

By Sarah Parrott · 13 hours ago · Leave a Comment

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Charlotte Figi of Colorado is not quite like other six-year-old girls; she, unfortunately, suffers from a rare form of epilepsy known as Dravet Syndrome, which causes severe seizures to wrack her small body. Charlotte was inhibited by over 300 seizures a month, which prevented her not just from running and playing like her peers, but from simple, everyday necessities, such as eating and walking on her own. Nothing seemed to help put the child's ailments to rest; that is, until her parents decided to try cannabis oil.



Charlotte's father, Matt Figi, had previously heard of an instance where another child with Charlotte's same disease had found relief with the aid of medical marijuana, and he and his wife decided to give it a shot. Paige, Charlotte's mother, recalled, "When she didn't have those three, four seizures that first hour, that was the first sign, and I thought well, 'Let's go another hour, this has got to be a fluke. The seizures stopped for another hour. And for the following seven days.'"

The particular strain used to treat Charlotte has been nicknamed "Charlotte's Web," and is low in THC (which causes the effects associated with a "high") and high in CBD, which is cannabis's main medical component. The treatment was finally approved by pediatricians and other health specialists after a long and arduous battle, and the results have been nothing short of amazing.

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Medicinal marijuana has allowed Charlotte to catch up with her peers at an incredibly fast pace; she can now walk, eat, and even ride a bicycle without any assistance. According to her parents, she has been talking more and more each day. Thanks to the relief she finds in medical marijuana,

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Plays a princess in upcoming film "Frozen"



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Marijuana stops child's severe seizures

By *Saundra Young*, CNN
 updated 4:51 PM EDT, Wed August 7, 2013

CNN.com

Is marijuana bad, or could it be good for some? CNN chief medical correspondent Dr. Sanjay Gupta spent a year traveling around the world to shed light on the debate. Catch his groundbreaking documentary "WEED" at 8 p.m. ET August 11 on CNN.

(CNN) – By most standards Matt and Paige Figi were living the American dream. They met at Colorado State University, where they shared a love of the outdoors. After getting married, the couple bought a house and planned to travel the world.

They did travel, but their plans changed when their first child was born in 2004.

Max was 2 when they decided to have another child. The couple got the surprise of their lives when an ultrasound revealed not one but two babies. Charlotte and Chase were born October 18, 2006.

"They were born at 40 weeks. ... Charlotte weighed 7 pounds, 12 ounces," Paige said. "They were healthy. Everything was normal."

Seizures and hospital stays begin

The twins were 3 months old when the Figis' lives changed forever.

Charlotte had just had a bath, and Matt was putting on her diaper.

"She was laying on her back on the floor," he said, "and her eyes just started flickering."

The seizure lasted about 30 minutes. Her parents rushed her to the hospital.



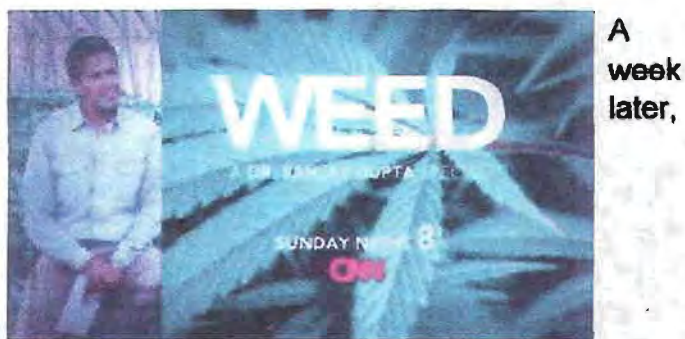
Medical facts of marijuana



Kennedy: I was wrong on medical pot



"They weren't calling it epilepsy," Paige said. "We just thought it was one random seizure. They did a million-dollar work-up – the MRI, EEG, spinal tap – they did the whole work-up and found nothing. And sent us home."



WEED: A Dr. Sanjay Gupta Special

Charlotte had another seizure. This one was longer, and it was only the beginning. Over the next few months, Charlotte – affectionately called Charlie – had frequent seizures lasting two to four hours, and she was hospitalized repeatedly.

Doctors were stumped. Her blood tests were normal. Her scans were all normal.

"They said it's probably going to go away," Paige recalled. "It is unusual in that it's so severe, but it's probably something she'll grow out of."

But she didn't grow out of it. The seizures continued. The hospital stays got longer. One of the doctors treating Charlotte thought there were three possible diagnoses.

The worse-case scenario? Dravet Syndrome, also known as myoclonic epilepsy of infancy or SMEI.

Dravet Syndrome is a rare, severe form of intractable epilepsy. Intractable means the seizures are not controlled by medication. The first seizures with Dravet Syndrome usually start before the age of 1. In the second year, other seizures take hold: myoclonus, or involuntary, muscle spasms and status epilepticus, seizures that last more than 30 minutes or come in clusters, one after the other.

At that time, the Figis said, Charlotte was still developing normally, talking and walking the same day as her twin. But the seizures continued to get worse. The medications were also taking a toll. She was on seven drugs – some of them heavy-duty, addictive ones such as barbiturates and benzodiazepines. They'd work for a while, but the seizures always came back with a vengeance.

"At 2, she really started to decline cognitively," Paige said. "Whether it was the medicines or the seizures, it was happening, it was obvious. And she was slipping away."

When Charlotte was 2½, the Figis decided to take her to Children's Hospital Colorado. A neurologist tested her for the SCN1A gene mutation, which is common in 80% of Dravet Syndrome cases. After two months, the test came back positive.

"I remember to this day it was a relief," Paige said. "Even though it was the worst-case scenario, I felt relief just to know."

Matt, a Green Beret, decided to leave the military.

"Every mission, every training I was going to do I was called home because she was in the pediatric ICU again or in the hospital again."

They were quickly running out of options. They considered a drug from France. Doctors suggested an experimental anti-seizure drug being used on dogs.

Paige took her daughter to Chicago to see a Dravet specialist, who put the child on a ketogenic diet frequently used to treat epilepsy that's high in fat and low in carbohydrates. The special diet forces the body to make extra ketones, natural chemicals that suppress seizures. It's mainly recommended for epileptic patients who don't respond to treatment.

The diet helped control Charlotte's seizures but had a lot of side effects. She suffered from bone loss. Her immune system plummeted. And new behavioral problems started popping up.

"At one point she was outside eating pine cones and stuff, all kinds of different things," Matt said. "As a parent you have to say, let's take a step back and look at this. Is this truly beneficial treatment because of these other things?"

Two years into the diet, the seizures came back.

The end of the rope

In November 2000, Colorado voters approved Amendment 20, which required the state to set up a medical marijuana registry program.

Pot activists divided over new cannabis club

There are eight medical conditions for which patients can use cannabis -- cancer, glaucoma, HIV/AIDS, muscle spasms, seizures, severe pain, severe nausea and cachexia or dramatic weight loss and muscle atrophy.

The average patient in the program is 42 years old. There are 39 patients under the age of 18.

Paige had consistently voted against marijuana use. That was before Dravet Syndrome entered their lives.

Matt, now a military contractor spending six months a year overseas, used his spare time scouring the Internet looking for anything that would help his little girl.

He found a video online of a California boy whose Dravet was being successfully treated with cannabis. The strain was low in tetrahydrocannabinol, or THC, the compound in marijuana that's psychoactive. It was also high in cannabidiol, or CBD, which has medicinal properties but no psychoactivity. Scientists think the CBD quiets the excessive electrical and

chemical activity in the brain that causes seizures. It had worked in this boy; his parents saw a major reduction in the boy's seizures.

By then Charlotte had lost the ability to walk, talk and eat.

She was having 300 grand mal seizures a week.

Her heart had stopped a number of times. When it happened at home, Paige did cardiopulmonary resuscitation until an ambulance arrived. When it happened in the hospital, where they'd already signed a do-not-resuscitate order, they said their goodbyes. Doctors had even suggested putting Charlotte in a medically induced coma to give her small, battered body a rest.

She was 5 when the Flgis learned there was nothing more the hospital could do.

That's when Paige decided to try medical marijuana. But finding two doctors to sign off on a medical marijuana card for Charlotte was no easy feat. She was the youngest patient in the state ever to apply.

Scientists don't fully understand the long-term effects early marijuana use may have on children. Studies that show negative effects, such as diminished lung function or increased risk of a heart attack, are primarily done on adult marijuana smokers. But Charlotte wouldn't be smoking the stuff.

Childhood is also a delicate time in brain development. Preliminary research shows that early onset marijuana smokers are slower at tasks, have lower IQs later in life, have a higher risk of stroke and increased incidence of psychotic disorders, leaving some scientists concerned.

Is medical marijuana safe for children?

"Everyone said no, no, no, no, no, and I kept calling and calling," Paige said.

She finally reached Dr. Margaret Gedde, who agree to meet with the family.

"(Charlotte's) been close to death so many times, she's had so much brain damage from seizure activity and likely the pharmaceutical medication," Gedde said. "When you put the potential risks of the cannabis in context like that, it's a very easy decision."

The second doctor to sign on was Alan Shackelford, a Harvard-trained physician who had a number of medical marijuana patients in his care. He wasn't familiar with Dravet and because of Charlotte's age had serious reservations.

"(But) they had exhausted all of her treatment options," Shackelford said. "There really weren't any steps they could take beyond what they had done. Everything had been tried — except cannabis."

Paige found a Denver dispensary that had a small amount of a type of marijuana called R4, said to be low in THC and high in CBD. She paid about \$800 for 2 ounces – all that was available – and had a friend extract the oil.

She had the oil tested at a lab and started Charlotte out on a small dose.

"We were pioneering the whole thing; we were guinea pigging Charlotte," Paige said. "This is a federally illegal substance. I was terrified to be honest with you."

But the results were stunning.

"When she didn't have those three, four seizures that first hour, that was the first sign," Paige recalled. "And I thought well, 'Let's go another hour, this has got to be a fluke.'"

The seizures stopped for another hour. And for the following seven days.

Paige said she couldn't believe it. Neither could Matt. But their supply was running out.

Charlotte's Web

Paige soon heard about the Stanley brothers, one of the state's largest marijuana growers and dispensary owners. These six brothers were crossbreeding a strain of marijuana also high in CBD and low in THC, but they didn't know what to do with it. No one wanted it; they couldn't sell it.

Still, even they had reservations when they heard about Charlotte's age. But once they met her, they were on board.

"The biggest misconception about treating a child like little Charlotte is most people think that we're getting her high, most people think she's getting stoned," Josh Stanley said, stressing his plant's low THC levels. "Charlotte is the most precious little girl in the world to me. I will do anything for her."

The brothers started the Realm of Caring Foundation, a nonprofit organization that provides cannabis to adults and children suffering from a host of diseases, including epilepsy, cancer, multiple sclerosis and Parkinson's, who cannot afford this treatment.

People have called them the Robin Hoods of marijuana. Josh Stanley said it's their calling. They use the money they make from medical marijuana patients and get donations from sponsors who believe in their cause. They only ask patients such as the Figis to donate what they can.

"We give (cannabis) away for next to free," Stanley said. "The state won't allow us to actually give it away, so we give it away for pennies really."

Charlotte gets a dose of the cannabis oil twice a day in her food.

Gedde found three to four milligrams of oil per pound of the girl's body weight stopped the seizures.

Today, Charlotte, 6, is thriving. Her seizures only happen two to three times per month, almost solely in her sleep. Not only is she walking, she can ride her bicycle. She feeds herself and is talking more and more each day.

"I literally see Charlotte's brain making connections that haven't been made in years," Matt said. "My thought now is, why were we the ones that had to go out and find this cure? This natural cure? How come a doctor didn't know about this? How come they didn't make me aware of this?"

The marijuana strain Charlotte and now 41 other patients use to ease painful symptoms of diseases such as epilepsy and cancer has been named after the little girl who is getting her life back one day at a time.

It's called Charlotte's Web.

"I didn't hear her laugh for six months," Paige said. "I didn't hear her voice at all, just her crying. I can't imagine that I would be watching her making these gains that she's making, doing the things that she's doing (without the medical marijuana). I don't take it for granted. Every day is a blessing."

Matt added, "I want to scream it from the rooftops. I want other people, other parents, to know that this is a viable option."

Readers debate future of pot laws

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The Hemp and Cannabis Foundation | Medical Clinics



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Hemp News

Washington Wants To Over-Tax Medical Marijuana So It Won't Compete With Legal Pot

Worth Repeating: 7 Cannabis Studies That Will Change Everything

By Ron Marczyk On August 8, 2013 at 4:20 pm · 7 Comments

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Editor's note: Welcome to Room 420, where your instructor is Mr. Ron Marczyk and your subjects are wellness, disease prevention, self actualization, and chillin'.

Since the 1980s, the major milestones our country has achieved are incredible.

We elected an African-American president, women's issues have made tremendous progress, and gays and lesbians can marry.

But cannabis is still illegal...? Not for long!

As the tsunami of hard empirical positive medical cannabis research builds, it meets the inevitable changing younger demographics of our country, and with the need for new cannabis-based jobs and new tax revenue.

The cannabis legalization tipping point is close at hand!

"Cannabis is the people's medicine" and has overwhelming public support.

Let's knock this last domino over!

And to that end...

I would like to highlight several research papers that discuss current findings regarding medical cannabis treatment and disease prevention.

The following medical papers focus on:



[Our Daily Blood...]

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"There is a large body of evidence showing that eCB are markedly increased in response to pathogenic traumatic head injury events."



[Fit Body Bootcamp]

"This fact, as well as numerous studies on experimental models of brain toxicity, neuroinflammation and trauma supports the notion that the eCB are part of the brain's compensatory or repair mechanisms."

These are mediated via CB receptors signalling pathways that are linked to neuronal survival and repair. The levels of 2-AG, the most highly abundant eCB, are significantly elevated after TBI and when administered to TBI mice, 2-AG decreases brain edema, inflammation and infarct volume and improves clinical recovery. (So would THC.)

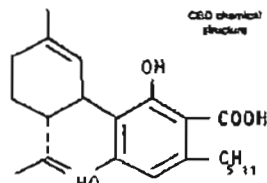
This review is focused on the role the eCB system plays as a self-neuroprotective mechanism and its potential as a basis for the development of novel therapeutic modality for the treatment of CNS pathologies with special emphasis on TBI.

Bottom line: For proof see U.S. government 2003 patent

#7: "Acute administration of cannabidiol in vivo suppresses ischaemia-induced cardiac arrhythmias and reduces infarct size when given at reperfusion"

British Journal of Pharmacology, August 2011

Findings: Cannabidiol (CBD) is a phytocannabinoid, with anti-apoptotic, (the process of programmed cell death) anti-inflammatory and antioxidant effects and has recently been shown to exert a tissue sparing effect during chronic myocardial ischaemia and reperfusion (I/R).



Not only is CBD cardioprotective — it is also an anti-epileptic, sedative, anxiolytic, antipsychotic, antioxidant, neuroprotectant, anti-inflammatory, and diabetic, anti-emetic, and anti-emergent [Cannabis NL]

However, it is not known whether CBD is cardioprotective in the acute phase of I/R injury and the present studies tested this hypothesis.

EXPERIMENTAL APPROACH: Male Sprague-Dawley rats received either vehicle or CBD (10 or 50 microg kg⁻¹ i.v.) 10 min before 30 min coronary artery occlusion or CBD (50 microg kg⁻¹ i.v.) 10 min before reperfusion (2 h). The appearance of ventricular arrhythmias during the ischaemic and immediate post-reperfusion periods were recorded and the hearts excised for infarct size determination and assessment

of mast cell degranulation. Arterial blood was withdrawn at the end of the reperfusion period to assess platelet aggregation in response to collagen.

KEY RESULTS: "CBD reduced both the total number of ischaemia-induced arrhythmias and infarct size when administered prior to ischaemia, an effect that was dose-dependent. Infarct size was also reduced when CBD was given prior to reperfusion. CBD (50 microg kg⁻¹ i.v.) given prior to ischaemia, but not at reperfusion, attenuated collagen-induced platelet aggregation compared with control, but had no effect on ischaemia-induced mast cell degranulation."

CONCLUSIONS AND IMPLICATIONS: "This study demonstrates that CBD is cardioprotective in the acute phase of I/R by both reducing ventricular arrhythmias and attenuating infarct size. The anti-arrhythmic effect, but not the tissue sparing effect, may be mediated through an inhibitory effect on platelet activation."

Remember to exercise your genja rights! Every day is a Genja day!

RRRRR

Editor's note: Ron Marczyk is a retired high school health education teacher who taught Wellness and Disease Prevention, Drug and Sex Ed, and AIDS education to teens aged 13-17.



Mr. Worth Repeating:
Former NYPD cop, former high school health teacher, the unstoppable Ron Marczyk, R.N., Toke Signals columnist

He also taught a high school International Baccalaureate psychology course. He taught in a New York City public school as a Drug Prevention Specialist.

He is a Registered Nurse with six years of ER/Critical Care experience in NYC hospitals, earned an M.S. in cardiac rehabilitation and exercise physiology, and worked as a New York City police officer for two years.

Currently he is focused on how evolutionary psychology explains human behavior.

To see all of Ron Marczyk's "Worth Repeating" articles for Toke Signals, click [here](#).

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Best Community Share 

 Brown Sugar · 11 hours ago
YES !!! it is about time.
2 ^ v Reply Share

 Dulcia Burkhardt · 12 minutes ago
Yes, I agree about legalizing marijuana. It is not a man made plant. For the people that love god should agree too because in the bible it says use every plant that bears seeds to the fullest extent. And also, its good for medical reasons. And for the people that are worried about people wrecking under the influence of marijuana need to look at alcohol. At least with marijuana, people can actually remember what goes on, with alcohol, its deadly bc you can drink to much and die from alcohol poisoning. No one has ever overdosed on THC.
^ v Reply Share

 Priscilla Gagnon · 2 hours ago
I think your studies are very convincing, however my only concern - and I don't know if it's been dealt with yet - is how to identify people under the influence of smoking cannabis. If they are driving. There has to be an easv

Public Comment

on the potential tonic
endocannabinoid control of
intestinal motility, the function of
cannabinoid type-1 (CB1) receptors in gastric function, visceral pain, inflammation and
sepsis, the emerging role of cannabinoid type-2 (CB2) receptors in the gut, and the
pharmacology of endocannabinoid-related molecules and plant cannabinoids not necessarily
acting via cannabinoid CB1 and CB2 receptors.

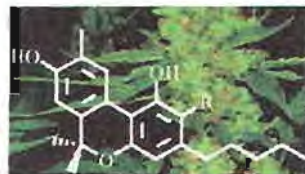
shown italicized.
[CAMR Journal]

These novel data highlight the multi-faceted aspects of endocannabinoid function in the GI tract, support the feasibility of the future therapeutic exploitation of this signaling system for the treatment of GI disorders, and leave space for some intriguing new hypotheses on the role of endocannabinoids in the gut.

#5: Cannabinoids and the Skeleton: From Marijuana to Reversal of Bone Loss"

Annals of Medicine, 2009

Findings: CB2 receptors maintain bone remodeling balance, thus protecting the skeleton against age-related bone loss.



[Medicinal Cannabis]

The active component of marijuana, Delta(9)-tetrahydrocannabinol, activates the CB1 and CB2 cannabinoid receptors, thus mimicking the action of endogenous cannabinoids.

CB1 is predominantly neuronal and mediates the cannabinoid psychotropic effects. CB2 is predominantly expressed in peripheral tissues, mainly in pathological conditions. So

for the main endocannabinoids, anandamide and 2-arachidonoylglycerol, have been found in bone at 'brain' levels.

The CB1 receptor is present mainly in skeletal sympathetic nerve terminals, thus regulating the adrenergic tonic restraint of bone formation. CB2 is expressed in osteoblasts and osteoclasts, stimulates bone formation, and inhibits bone resorption.

Because low bone mass is the only spontaneous phenotype so far reported in CB2 mutant mice, it appears that the main physiologic involvement of CB2 is associated with maintaining bone remodeling at balance, thus protecting the skeleton against age-related bone loss.

Indeed, in humans, polymorphisms in CNR2, the gene encoding CB2, are strongly associated with postmenopausal osteoporosis. Preclinical studies have shown that a synthetic CB2-specific agonist rescues ovariectomy-induced bone loss.

Taken together, the reports on cannabinoid receptors in mice and humans pave the way for the development of 1) diagnostic measures to identify osteoporosis-susceptible polymorphisms in CNR2, and 2) cannabinoid drugs to combat osteoporosis.

#6: "Endocannabinoids and Traumatic Brain Injury"

British Journal of Pharmacology, August 2011

Findings: Traumatic brain injury (TBI) represents the leading cause of death in young individuals. THC activation of the CB1 receptor is the same as the action of anandamide on CB1.

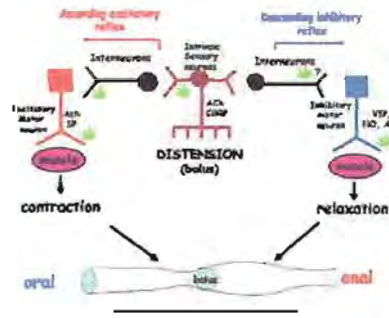
This article discusses how anandamide increases in the brain after injury, so THC may have the potential to become a front line emergency medicine in the future.

"Anatomical, physiological and pharmacological studies have shown that the endocannabinoid system is widely distributed throughout the gut, with regional variation and organ-specific actions." (CB2 receptors are embedded within the lining of the intestines in large numbers.)

"They are involved in the regulation of food intake, nausea and emesis, gastric secretion and gastro protection, GI motility, ion transport, visceral sensation, intestinal inflammation and cell proliferation in the gut."

"As we have shown, the endocannabinoid system is widely distributed throughout the gut, with regional variation and specific regional or organ-specific actions."

"CB2 receptors are involved in the regulation of food intake, nausea and emesis, gastric secretion and gastro protection, GI motility, ion transport, visceral sensation, intestinal inflammation and cell proliferation (cancer)"



Sites of action of cannabinoids in the enteric nervous system. CB2 receptors indicated with the marijuana leaf.



How THC/cannabinoid activates the CB1/2 receptors to shut down colon cancer by signaling cancer cells to self-destruct

"Preclinical models have shown that modifying the endocannabinoid system can have beneficial effects.... Pharmacological agents that act on these targets have been shown in preclinical models to have therapeutic potential." [THC is the Pharmacological agent mentioned.]

Colorectal Cancer Prevention Model

Cannabinoids via CB1 and possibly CB2 receptor activation, have been shown to exert apoptotic actions in several colorectal cancer cell lines.

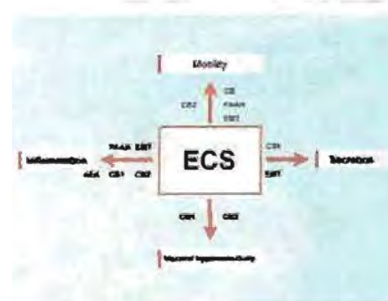
See the illustration at left for how THC/cannabinoid activates the CB1/2 receptors to shut down colon cancer by signaling cancer cells to self-destruct.

#4: "Gut Feelings about the Endocannabinoid System"

Journal of Gastrointestinal Motility, May 2011

Findings: Stemming from the centuries-old and well known effects of Cannabis on intestinal motility and secretion, research on the role of the endocannabinoid system in gut function and dysfunction has received ever increasing attention since the discovery of the cannabinoid receptors and their endogenous ligands, the endocannabinoids.

In this article, some of the most recent developments in this field are discussed, with particular emphasis on new data, most of which are published in *Neurogastroenterology & Motility*.



Schematic illustration of the functional roles of the endocannabinoid system (ECS) in the gastrointestinal tract. The ECS regulates four major functional elements in the gut: motility, secretion, inflammation, and sensation in health and disease. Major components of the ECS that have been defined in each of these functional roles are shown: CB1 and CB2 receptors, anandamide (AEA), fatty acid amide hydrolase (FAAH), and the endocannabinoid membrane transporter (EMT). For motility, the CB2 receptors only appear to be active under pathophysiological conditions and are

IMPORTANT: This is a very intriguing observation. What is being implied here is that some people may be suffering from an anandamide deficiency! Just as a diabetic is insulin deficient and must supplement their body with insulin, in this case THC is the vital medicine needed to replace low levels of anandamide.

These observations also raise the exciting possibility that enhancing cannabinoid tone (code for THC locking into the CB1 receptor) through cannabinoid based pharmacotherapies may attenuate these harmful processes to produce anti-cancer effects in humans.

Bottom line: Smoking marijuana prevents cancer body-wide.

#2: "Update on the Endocannabinoid System as an Anticancer Target"

Expert Opinion on Therapeutic Targets, March 2011

Findings: antitumor effects, cancer prevention

"Recent studies have shown that the endocannabinoid system (ECS) could offer an attractive antitumor target. Numerous findings suggest the involvement of this system (constituted mainly by cannabinoid receptors, endogenous compounds and the enzymes for their synthesis and degradation) in cancer cell growth in vitro and in vivo."



"This review covers literature from the past decade which highlights the potential of targeting the ECS for cancer treatment. In particular, the levels of endocannabinoids and the expression of their receptors in several types of cancer are discussed, along with the signaling pathways involved in the endocannabinoid antitumor effects."

"Furthermore, targeting the ECS with agents that activate cannabinoid receptors (This means THC) or inhibitors of endogenous degrading systems such as fatty acid amide hydrolase inhibitors may have relevant therapeutic impact on tumor growth. Additional studies into the downstream consequences of endocannabinoid treatment are required and may illuminate other potential therapeutic targets."

#3: "Cannabinoids and the Gut: New Developments and Emerging Concepts"

Pharmacology & Therapeutics, April 2010

Findings: THC and inflammatory bowel disease, irritable bowel syndrome (IBS), colitis, colon cancer, vomiting/chemotherapy



"Disorders of the gastrointestinal (GI) tract have been treated with herbal and plant-based remedies for centuries. Prominent amongst these therapeutics are preparations derived from the marijuana plant Cannabis. Cannabis has been used to treat a variety of GI conditions that range from enteric infections and inflammatory conditions, including inflammatory bowel disease (IBD) to disorders of motility, emesis and abdominal pain."

"Cannabis has been used to treat gastrointestinal (GI) conditions that range from enteric infections and inflammatory conditions to disorders of motility, emesis and abdominal pain."

"The mechanistic basis of these treatments emerged after the discovery of Delta(9)-tetrahydrocannabinol as the major constituent of Cannabis. Further progress was made when the receptors for Delta(9)-tetrahydrocannabinol were identified as part of an endocannabinoid system, that consists of specific cannabinoid receptors."

Cannabidiol is degraded THC. It activates CB2 receptors mostly in the body. In both cases, THC controls both immune systems (brain and body), in one form or another. It seems that CB1 brain receptors link up to CB2 body receptors, which in turn control many autoimmune diseases.

The word used to describe this cannabis brain/body link up is Psychoneuroimmunology.

Mind = neurotransmitter = immune system communication system, or in this case "Cannabinergic Psychoneuroimmunology" — cannabinoid-induced immune system healing.

Cannabis consciousness repairs your immune system: never underestimate the power of a bong hit!

#1: "The Endocannabinoid System and Cancer: Therapeutic Implication"

The British Journal of Pharmacology, 2011

Findings: Delta 9 THC as a treatment for breast, prostate, brain and bone cancer.

"This review updates the relationship between the endocannabinoid system and anti-tumor actions (inhibition of cell proliferation and migration, induction of apoptosis, reduction of tumor growth) of the cannabinoids in different types of cancer."



[WhyProhibition.ca]

"The therapeutic potential of cannabinoids for cancer, as identified in clinical trials, is also discussed. Identification of safe and effective treatments to manage and improve cancer therapy is critical to improve quality of life and reduce unnecessary suffering in cancer patients."

"In this regard, cannabis-like, compounds offer therapeutic potential for the treatment of breast, prostate and bone cancer in patients. Further basic research on anti-cancer properties of cannabinoids as well as clinical trials of cannabinoid therapeutic efficacy in breast, prostate and bone cancer is therefore warranted."

"The available literature suggests that the endocannabinoid system may be targeted to suppress the evolution and progression of breast, prostate and bone cancer as well as the accompanying pain syndromes. Although this review focuses on these three types of cancer, activation of the endocannabinoid signaling system produces anti-cancer effects in other types of cancer including skin, brain gliomas and lung."



[MedicalMarijuana.org]

"Interestingly, cannabis trials in population based studies failed to show any evidence for increased risk of respiratory symptoms/chronic obstructive pulmonary disease or lung cancer (Tashkin, 2005) associated with smoking cannabis."

"Moreover, synthetic cannabinoids (Delta 9 THC) and the endocannabinoid system play a role

in inhibiting cancer cell proliferation and angiogenesis, reducing tumor growth and metastases and inducing apoptosis (self destruction for cancer cells) in all three types of cancers reviewed here.

"These observations raise the possibility that a dysregulation of the endocannabinoid system may promote cancer, by fostering physiological conditions that allow cancer cells to proliferate, migrate and grow."

Worth Repeating: 7 Cannabis Studies That Will Change Everything 7 comments | by *Rico Marcyk*
 Shocking Case: Special Needs Teens Entrapped in Undercover Drug Bust 4 comments | by *Steve Elliott*
 MBS: Australia's Terrible Marijuana Strain [Pictorial] 4 comments | by *Steve Elliott*
 Marijuana Legalization in Washington State: The Good, the Bad, and the Ugly 3 comments | by *Anna Dawn Garland*



Archives

- August 2013
- July 2013
- June 2013
- May 2013
- April 2013
- March 2013
- February 2013
- January 2013



HELP JULIA of PETERMCWILLIAMS.org travel to speak about the late Peter McWilliams at cannabis fests in 2013! Get shirts, Peter's books, & more, [click here!](#) All proceeds go to travel costs. 

The female cannabis plant is a THC-resin factory. THC, which makes up the plant's resin, has the important job of collecting pollen from the male plant for fertilization. No THC-laced resin, no seed production. Additionally, this resin tastes very bad to herbivores, which leave it alone, and it also offers superior UV protection to the plant at high altitudes.



Power Flower strain (Rhinosueda)

A cannabis sativa flower is coated with trichomes, which contain more THC than any other part of the plant.

The cannabis plant has only two functions: to make THC and seeds.

THC is the most abundant "phytocannabinoid" within the cannabis plant.

All other THC-like substances in the plant are THC intermediate metabolites being assembled by the plant on their way to becoming THC.

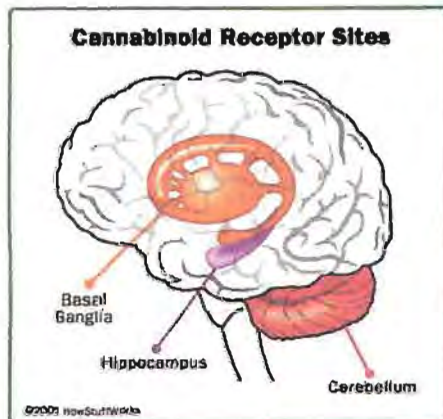
Once the plant is cut down and dies, the THC degrades into cannabidiol. Cannabidiol (CBN) is the primary product of THC degradation, and there is usually little of it in a fresh plant. CBN content increases as THC degrades in storage, and with exposure to light and air, and it is only mildly psychoactive.

Why would just this one plant, and the phytocannabinoids it produces control not one, but two dedicated molecular receptors for phytocannabinoids, with more predicted to still be discovered?

Did evolution intend for them to be naturally consumed for proper body function? As any other plant-derived antioxidant?

How THC Talks to the Brain and Immune System

All healing, cancer fighting and aging in your body is controlled by the immune system.



(How Stuff Works)

Phytocannabinoids appear to control the activity level of the immune system up or down, so that it doesn't attack its host or respond too weakly to cellular dysfunction. Whenever you hear the term "anti-inflammatory activity," think "cannabis immune system control."

CB1 cannabinergic receptors are the majority of receptor type in the synaptic cleft. THC-activated CB1 brain receptors directly link up

and control the microglial cells in the brain; the microglia is the specialized white blood cells that make up the brain's dedicated immune system.

- Hail Mary Jane
- Hemp Beach TV
- Hemp CT
- Hemp News
- Hemp.org
- Hempology.org
- HighRoulette.com
- HowstGoinEh.com: A Compass Online Community
- Incredible Medibles Cannabis Experiences (Seattle Weekly)
- Jay Seithofner, Citizen Activist
- KIEF Radio
- Law Enforcement Against Prohibition (LEAP)
- Lawmen Protecting Patients
- Marijuana Policy Project (MPP)
- Marijuana: The Forbidden Medicine
- MedicinalColorado.org
- Moms For Marijuana International
- Multidisciplinary Association for Psychedelic Studies (MAPS)
- Narco Polo: Defending Recreational Drug Use
- No Excuses Entertainment/Baker
- November Coalition
- Oregon Cannabis Connection
- PeterMcWilliams.org: A Tribute to McWilliams
- Reality Catcher
- Regina Garson's Blog
- Sensible Washington
- stevenhager420
- Students for Sensible Drug Policy
- The Hemp and Cannabis Foundation
- THCF Medical Clinics
- The Human Solution
- The Safety Meeting with IAMSAF
- Token Signals Marijuana Dispensary Reviews (Seattle Weekly)
- Two-O's Greenhouse
- Wired Activist

California: Tailgating of Deputy Leads To Bust of Marijuana Grow August 9, 2013
 Florida: Advocate Talks Medical Marijuana's Economic Impact August 9, 2013
 Washington: Seattle Hempfest 2013 Sends Message To The President August 9, 2013
 Chile: Psychiatrist Leads Crusade To Legalize Marijuana August 8, 2013



Recent Posts

Worth Repeating: 7 Cannabis Studies That Will Change Everything
 Washington Wants To Over-Tax Medical Marijuana So It Won't Compete With Legal Pot
 Shocking Case: Special Needs Teens Entrapped in Undercover Drug Bust Faith in a Plant: The Biography of Dr Mollie Fry (Chapter 3)

Recent Comments

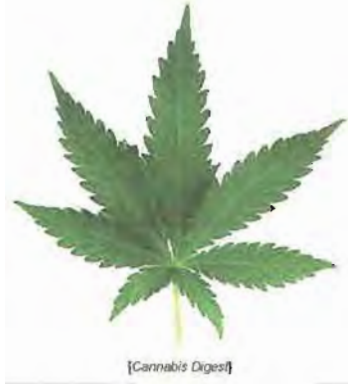
Dulcia Burkhardt on Worth Repeating: 7 Cannabis Studies That Will Change Everything
 E-Machine on Worth Repeating: 7 Cannabis Studies That Will Change Everything
 chad on Worth Repeating: 7 Cannabis Studies That Will Change Everything
 jon rykert on Worth Repeating: 7 Cannabis Studies That Will Change Everything
 Trav Kidd on Worth Repeating: 7 Cannabis Studies That Will Change Everything



Toke Signals biggest hits of the week.

- Cancer and colon cancer prevention
- Inflammatory bowel disease, irritable bowel syndrome, colitis, Crohn's disease
- Vomiting from chemotherapy
- Osteoporosis
- Traumatic brain injury
- Heart disease /heart attack

The concept of the endocannabinoid system was outlined a mere 14 years ago, and look how far we have come!



[Cannabis Digest]

Today "phytocannabinoid therapeutics" is the newest, fastest growing field in medical research.

As this medical cannabis evidence-based tsunami approaches, its main therapeutic action appears to restoring homeostasis to multiple body systems.

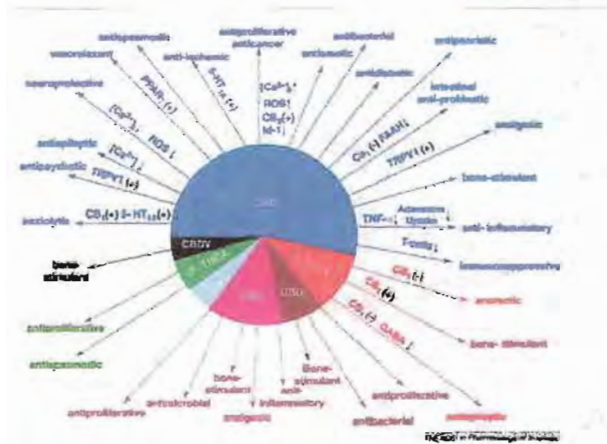
The action by which phytocannabinoids heal is by reestablishing the proper immune set points within CB1/2 receptors in both brain and body.

Research supports medical cannabis as important a medical discovery as insulin or penicillin were in their day.

Perhaps the root of many human illnesses is an anandamide deficiency, which, when corrected and rebalanced by THC intake, produces homeostasis.

Whatever anandamide does in the body, phytocannabinoids mimic. My prediction is that phytocannabinoids will ultimately be found to be a vital to human health.

Phytocannabinoids mimic the same actions of Anandamide in the brain and body, which maintain homeostasis, maintaining wellness and disease prevention!



[TRENDS in Pharmacological Science]
 Pharmacological actions of non-psychoactive cannabinoids (with the indication of the proposed mechanisms of action). Abbreviations: D 9 -THC, D 9 -tetrahydrocannabinol; D 8 -THC, D 8 -tetrahydrocannabinol; CBN, cannabinol; CBD, cannabidiol; D 9 -THCV, D 9 -tetrahydrocannabinol; CBC, cannabichromene; CBA, cannabigerol; D 9 -THCA, D 9 -tetrahydrocannabinolic acid; CBDA, cannabidiolic acid; TRPV1, transient receptor potential vanilloid type 1; PPARγ, peroxisome proliferator-activated receptor γ; ROS, reactive oxygen species; 5-HT1A, 5-hydroxytryptamine receptor subtype 1A; FAAH, fatty acid amide hydrolase. (+), direct or indirect activation; *, increase; ↓, decrease.

It's All About THC

THC is unique, in that it is only found in one plant on earth.

Sponsorship/Advertisin Opportunities

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- Americans for Safe Access (AS/
- AWOP Radio
- Beyond Chronic: Medical Cannabis Information You Can Trust
- BeyondTHC.com (O'Siaghnes Online)
- Breezy Kiefair: Artist, Writer, Cannabis Warrior
- Cannabis N.I.: Northern Ireland
- Colorado Cannabis Blog
- Drug Policy Alliance Network

Item No. 17-1

“To Be Delivered” Material

For

City of Sacramento

City Council

Financing Authority

Housing Authority

Redevelopment Agency

Agenda Packet

Submitted: 10/22/10

For the Meeting of: October 26, 2010

The attached materials were not available at the time the Agenda Packet was prepared.

Title: Pass For Publication: Ordinance Amendment: Medical Marijuana Dispensaries

Contact Information: Michelle Heppner, 808-1226

Please include this “To Be Delivered” material in your agenda packet. This material will also be published to the City’s Internet. For additional information, contact the City Clerk Department at Historic City Hall, 915 I Street, First Floor, Sacramento, CA 95814-2604, (916) 808-7200.



REPORT TO COUNCIL

City of Sacramento

915 I Street, Sacramento, CA 95814-2604

www.CityofSacramento.org

CONSENT

October 26, 2010

**Honorable Mayor and
Members of the City Council**

Title: Pass for Publication: Ordinance: Medical Marijuana Dispensaries

Location/Council District: Citywide

Recommendation: 1) Review an **Ordinance** adding Chapter 5.150 of the Sacramento City Code and repealing Ordinances 2009-033 and 2009-041, relating to medical marijuana dispensaries, 2) Review an **Ordinance** amending Sections 17.16.010, 17.24.030, 17.24.050, 17.108.020, and 17.108.030 of Title 17 of the Sacramento City Code (the Zoning Code) relating to medical marijuana dispensaries (M10-015); 3) Review a **Resolution** setting fees under Chapter 5.150 of the Sacramento City Code relating to the Medical Marijuana Dispensaries Program, 4) Review a **Resolution** setting fees under Chapter 17.196 of the Sacramento City Code relating to a special permit to operate a medical marijuana dispensary, 5) Review **Resolution** amending the Fiscal Year 2010/11 Operating Budget to add 1.0 FTE Program Analyst in the Finance Department, 1.0 FTE Zoning Investigator, and 1.0 FTE Customer Service Representative in the Community Development Department and adjust line item budgets for revenue and expenditures accordingly; and 6) pass for publication the Ordinances titles as required by Sacramento City Charter § 32(c) to be adopted on November 9, 2010.

Contact: Michelle Heppner, Special Projects Manager, 808-1226

Presenters: N/A

Department: City Manager's Office

Division: Government Affairs

Organization No: 09200

Description/Analysis

Issue: In June 2009, the City Council directed staff to develop an ordinance to regulate medical marijuana dispensaries. Proliferation of medical marijuana dispensaries is a statewide issue, and there has not been a consistent response by other cities in California. Currently, the City has a moratorium prohibiting new medical marijuana dispensaries from opening and prohibiting existing dispensaries from modifying or expanding their current operations. The moratorium will expire on July 13, 2011.

At the July 27, 2010 City Council meeting, staff presented three options to the Council for locating medical marijuana dispensaries. Option 3, was approved and Council directed staff to develop a draft ordinance. Based on discussion and direction by the Council and subsequent review by the City Attorney's Office regarding Option 3, staff is recommending a modified approach for locating existing medical marijuana dispensaries.

Option 3 set location proximity restrictions as follows:

- a. 1,000 feet from each other;
- b. 500 feet (staff recommends this be increased to 600 feet to be consistent with new state law as it relates to proximity to schools) from parks, schools, youth-oriented facilities, churches, substance abuse centers, theaters and tobacco shops; and
- c. 300 feet from residential zones.

Staff recommends allowing existing dispensaries, that (1) were properly registered with the City, and (2) have operated continuously at the same location since July 27, 2010, to be exempt from the proximity restrictions above. This exemption allows an existing and properly registered dispensary to apply for a special permit under Title 17 and a business permit under Title 5 from their existing location without having to meet the proximity restrictions above.

However, for any dispensary that decides to move from their existing location to a new location inside the City during the application process they will lose their exempt status, must then comply with the fixed proximity restrictions above, and may not get a waiver from the Planning Commission.

The remaining key components approved by City Council on July 27, 2010 are included in this modified approach and are incorporated into the Title 5 business permit. The Title 5 business permit will be required in addition to a Title 17 special permit. The Title 5 business permit is required to be renewed annually.

Of significance is that all dispensaries must be in compliance with all application and operating requirements no later than one year from the effective date of this ordinance. Dispensaries that fail to comply with this time limitation must cease operations. After one year the City Council can evaluate the number of dispensary permits that are issued and the location of the dispensaries to determine whether

additional dispensary permits should be granted through the adoption of a new or amended medical marijuana ordinance.

On September 30, 2010 the Governor signed into law, Assembly Bill 2650, authored by Assemblywoman Joan Buchanan prohibiting any medical marijuana cooperative or collective to locate within 600 feet of a school. Staff is recommending adjusting the fixed proximity location restrictions from 500 feet from schools, parks, youth-oriented facilities, churches, substance abuse centers, theaters and tobacco shops to 600 feet to be consistent with AB 2650 as it relates to schools.

Policy Considerations: The City Council has determined that it supports medical marijuana dispensaries in the City and has directed staff to develop an ordinance to regulate medical marijuana dispensaries. Presently, the City's Zoning Code (Title 17) does not recognize or allow medical marijuana dispensaries in the City. The proposed ordinances will allow medical marijuana dispensaries to operate under a Title 17 special permit and a Title 5 business permit.

Environmental Considerations:

California Environmental Quality Act (CEQA):

The adoption of the ordinances is not a "project" covered by the CEQA under Section 21065 and CEQA Guidelines Section 15060(c)(2). Individual projects that may apply for entitlements under the ordinance amending Title 17 would undergo separate environmental review.

Sustainability Considerations: None

Commission/Committee Action: The Law & Legislation Committee heard this item on April 6, 2010 and approved several of the key components of the ordinance and directed staff to further research the location requirements and the number of medical marijuana dispensaries that should be allowed relevant to these location requirements. The Law & Legislation Committee referred this item to the full City Council for discussion. The City Council heard this item on July 27, 2010, provided policy direction and directed staff to return to City Council with an ordinance for consideration.


The proposed Zoning Code (Title 17) amendment was presented to the Planning Commission on September 9, 2010. By a vote of 10 ayes and 1 no, the Planning Commission voted to recommended approval of the proposed amendment to Title 17 of the City Code and forward the recommendation to the City Council. The modified approach has not been heard by the Planning commission.

Rationale for Recommendation: Due to the conflicting responses by other cities in regulating medical marijuana dispensing dispensaries, no clear standard is applied in cities that regulate these establishments. Based on the direction received by the City Council and further review by the City Attorney's office, staff is recommending the City Council review and pass for publication a modified version of Option 3 which was approved by the City Council on July 27, 2010.

Financial Considerations: Per direction by the City Council, regulation of medical marijuana dispensaries should be self-supporting. Staff has developed a fee structure to provide for the review, processing, and enforcement of the proposed ordinance. In order to manage this program, additional staff is necessary to process applications and ensure compliance with the proposed ordinance. Consequently fees are proposed for the dispensaries to cover the City's application process, program development and compliance. For fiscal year 2010/11 revenues and expenditures need to be increased by \$66,000 in the Finance Department, Dept ID 06001231 and \$145,000 in Community Development Department Dept ID 21001314. More detail regarding the Title 17 and Title 5 fees are outlined in Attachment 1 in the background section of this report.

Emerging Small Business Development (ESBD): Given the state of the economy and the fact that medical marijuana dispensaries are providing jobs in the City, all the existing medical marijuana dispensaries can be classified as emerging and small business in the City.

Respectfully Submitted by: _____


Michelle Heppner
Special Projects Manager

Recommendation Approved:


Gus Vina
Interim City Manager

APPROVED AS TO FORM:

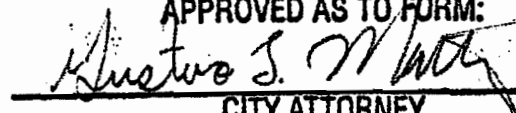

CITY ATTORNEY

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7 Resolution Title 5 Proposed Fees	pg. 52
Exhibit A – Title 5 Fees	pg. 53
8 Resolution Amending Fiscal Year 2010/11 Operating Budget	pg. 54
9 Overview of Application Process	pg. 56

Attachment 1**BACKGROUND**

The City Council has determined that it supports medical marijuana dispensaries in the City. Presently, the City's zoning code does not recognize or allow medical marijuana dispensaries in the City.

In June 2009, the City Council directed staff to develop an ordinance to regulate medical marijuana dispensaries. Proliferation of medical marijuana dispensaries is a statewide issue, and there has not been a consistent response by other cities in California. Currently, the City has a moratorium prohibiting new medical marijuana dispensaries from opening and prohibiting existing dispensaries from modifying or expanding their current operations. The moratorium will expire on July 13, 2011.

On July 27, 2010, staff presented to the City Council three options to be included in the proposed ordinance to regulate medical marijuana dispensaries. Each option included key components approved and forwarded by the Law & Legislation Committee on April 6, 2010 to the full City Council. The City Council approved Option 3 and directed staff to return to the City Council with a draft ordinance. Attachment 2, page 9, provides Option 3 approved by City Council on July 27, 2010 and staff's modified version for comparison.

Based on discussion and direction by the City Council on July 27, 2010 and subsequent review by the City Attorney's office, staff is recommending a modified approach to the process for locating medical marijuana dispensaries from what City Council approved under Option 3. Option 3 included several key components and a process for the Planning Commission to waive sensitive use requirements by obtaining a Title 17 Special Permit. Staff is recommending modifying this to allow existing dispensaries that, (1) were properly registered with the City on or before August 13, 2009, and (2) have operated continuously at the same location since July 27, 2010, to be exempt from the proximity restrictions. This exemption allows an existing dispensary to apply for a special permit under Title 17 and a business permit under Title 5 from their existing location without having to meet the proximity restrictions.

However, for any dispensary that decides to move from their existing location to a new location inside the City during the application process they will lose their exempt status, must then comply with the fixed proximity restrictions above, and may not get a waiver from the Planning Commission.

On September 30, 2010 the Governor signed into law, Assembly Bill 2650, authored by Assemblywoman Joan Buchanan prohibiting any medical marijuana cooperative or collective to locate within 600 feet of a school. Staff is recommending adjusting the fixed proximity location restrictions from 500 feet from schools, parks, youth-oriented facilities, churches, substance abuse centers, theaters and tobacco shops to 600 feet to be consistent with AB 2650 as it relates to schools.

The remaining key components approved by City Council on July 27, 2010 are included in this modified approach and are incorporated into the Title 5 Medical Marijuana Dispensary Program Permit. The Title 5 Medical Marijuana Dispensary Program Permit will be required in addition to a Title 17 special permit. The Title 5 Medical Marijuana Dispensary Program Permit is required to be renewed annually.

Application Process

The medical marijuana industry is in a unique position of regulation. The State of California does not have specific laws for permitting or licensing medical marijuana dispensing. However the State Attorney General has established guidelines for the industry to follow and staff is recommending that the City require dispensaries to be in compliance with these guidelines. Consequently, staff is recommending a two-phased application process under Title 5. The first phase will include a high level review to ensure the applicants qualify to apply under the ordinance. The second phase will be a comprehensive application detailing how the applicant will meet the criteria set forth for medical marijuana dispensaries in both the Title 5 and Title 17 ordinances.

Once Phase 1 Title 5 has been approved, the applicant will be eligible to continue to Phase 2 of the Title 5 permit and Title 17 Special Permit. These two applications require much more detail and analysis, but they can be processed concurrently. Attachment 7 on Page 52 provides an overview of the proposed application process.

Proposed Fees and Staffing

Per direction by the City Council, regulating medical marijuana dispensaries should be self-supporting and not place any burden on the City's General Fund. Staff has developed a fee structure to provide for the review, processing, and enforcement of the proposed ordinance. In order to manage this program, additional staff is necessary to process applications and ensure compliance with the proposed ordinance. The fees proposed for medical marijuana dispensaries are to cover the City's application process, program development and compliance. See Attachment 3 for detail to Title 17 special permit fees to be administered by the Planning Division, and Attachment 4 for details on the Title 5 Medical Marijuana Dispensary Application and Program Fees to be administered by the Revenue Division.

Due to the ambiguous and conflicting laws at the state and federal level regarding medical marijuana, regulation thereof is both complicated and controversial. As such, a dedicated Program Analyst position is recommended to oversee the application process and monitor the medical marijuana program and industry developments. A Zoning Investigator position is recommended to ensure field compliance along with 1.0 full time employee of a Customer Service Representative position to process enforcement documentation in the Community Development Department.

The cost to fund the proposed positions and corresponding service and supplies is approximately \$315,000 annually. Consequently the Fiscal Year 2010/11 budget needs to be amended for increased revenue and expense at \$211,000 (7 months) for program and startup costs.

Currently there are 39 registered dispensaries. Staff has made a conservative estimate that 25 dispensaries will complete the permit process within one year. Consequently, to sustain the city's ongoing costs, the program fee needs to be set at \$12,600. This fee should be evaluated annually in the fee and charge review process for accurate cost

recovery.

The city has dedicated significant resources to developing this program. The initial application process will require additional resources to the ongoing program and compliance costs. The initial application fee is recommended at \$5,000 for phase 1 application.

It is also anticipated that Planning Division staff will spend additional hours in research, report writing, meetings and community outreach than typically involved in a special permit process proposal. A Planning Commission special permit for medical marijuana dispensaries is recommended at \$19,415 and Zoning Administrator's Special Permit for Medical Marijuana Dispensaries is recommended at \$13,815. In addition, a fee of \$3,500 is recommended if major modifications are requested under the Zoning Administrator's special permit for medical marijuana dispensaries.

The table below lists proposed fees for Title 5 and Title 17 respectively.

Type	Fees
Medical Marijuana Title 5	
Dispensary Permit Application (Phase 1)	\$ 5,000
Dispensary Permit Program (New and Annual)	\$12,600
Dispensary Permit Program Appeal	\$ 400
Fingerprint Fees	\$ 84
Zoning Title 17	
Special Permit Fee	\$19,415
Zoning Administrator Fee	\$13,815
Zoning Administrator Major Modification Fee	\$ 3,500

Based on direction by the City Council on July 27, 2010 and subsequent review by the City Attorney's Office, staff is requesting City Council to pass for publication the ordinances titles as required by Sacramento City Charter § 32(c) of the City of Sacramento to be adopted on November 9, 2010.

Attachment 2

Comparison of Option 3 and the Modified Approach

(Changes are Bolded and Italicized)

Option 3 (Approved by City Council July 27, 2010)	Modified Approach
<p><u>Compliance with Existing State Law</u></p> <ul style="list-style-type: none"> • Compassionate Use Act of 1996 (Proposition 215) • Medical Marijuana Program Act of 2003 (SB 420), and • Attorney General Guidelines issued 2008 	<p><u>Compliance with Existing State Law</u></p> <ul style="list-style-type: none"> • Compassionate Use Act of 1996 (Proposition 215) • Medical Marijuana Program Act of 2003 (SB 420), and • Attorney General Guidelines issued 2008
<p><u>Number of Dispensaries Allowed</u></p> <ul style="list-style-type: none"> • No stated cap. However, applications to open a medical marijuana dispensary will be limited to existing 39 registered dispensaries as of July 27, 2010 – City Council may choose to reevaluate at a later date. 	<p><u>Number of Dispensaries Allowed</u></p> <ul style="list-style-type: none"> • No stated cap. However, applications to open a medical marijuana dispensary will be limited to existing 39 registered dispensaries as of July 27, 2010 – City Council may choose to reevaluate at a later date.
<p><u>Location Requirements</u></p> <ul style="list-style-type: none"> • Allow in Commercial and Industrial Zones Only (No Residential Zones). • Require a 300 feet buffer from Residential Zones. • Must comply with same requirements as a "Retail" establishment for minimum building standards, parking, ADA, etc. 	<p><u>Location Requirements</u></p> <ul style="list-style-type: none"> • <i>Existing registered dispensaries that were in continuous operation on or before October 26, 2010, are exempt from the proximity restrictions if they do not move from their existing location.</i> • <i>If a dispensary chooses to move, change ownership, or stop dispensing they lose their exempt status and Title 5 business permit.</i> • <i>For any dispensary that decides to move during the application process they must comply with the <u>fixed</u> proximity restrictions below and may not get a waiver from the Planning Commission.</i> • <i>Fixed Proximity Restrictions Include:</i> <ul style="list-style-type: none"> ○ <i>1,000 feet from each other;</i> ○ <i>600 feet from parks, schools, youth-oriented facilities, churches, substance abuse centers, theaters and tobacco shops; and</i> ○ 300 feet from residential zones. ○ Allow in Commercial and Industrial Zones Only (No Residential Zones). ○ Must comply with same requirements as a "Retail" establishment for minimum building standards, parking, ADA, etc.

<p align="center">Option 3 (Approved by City Council July 27, 2010)</p>	<p align="center">Modified Approach</p>
<p><u>Distance from Sensitive Uses</u></p> <ul style="list-style-type: none"> • Require 500 feet from youth-oriented facilities (parks, schools, day care), churches/faith congregation, substance abuse centers, theatres, and tobacco retailers. • Require 1,000 feet from other Dispensaries. • Possible waiver of location requirements if the City Manager determines that a physical barrier, buffer, or similar condition exists which achieves the same purpose and intent as the distance separation requirements i.e. a highway. 	<p><u>Distance from Sensitive Uses</u></p> <ul style="list-style-type: none"> • Require 600 feet from youth-oriented facilities (parks, schools, and day care), churches/faith congregation, substance abuse centers, theatres, and tobacco retailers. (AB 2650 [proximity to schools], Buchanan) • Require 1,000 feet from other Dispensaries.
<p><u>Conditions</u></p> <ul style="list-style-type: none"> • Dispensary size not to exceed 8,000 square feet maximum. • Require on-site security during business hours. • Require Fire, Burglary, and Robbery Alarm System. • Lighting requirements. • Signage requirements - not to exceed six square feet in area or 10 percent of the window area, whichever is less. • Require a door locking system. • Require security cameras - retain recording for no less than 30 days. • Business hours - 7 AM – 9 PM. • Criminal history – All staff, owners and volunteers not convicted of a felony. • No minors as employees. • No on-site consumption and require restrooms to be locked at all times. • No on-site alcohol consumption or sales – facility may not maintain an ABC license. • Other than providing medical marijuana no sales or services of any kind allowed at the dispensary. • Require posting sign on all marijuana products that states patrons/members of the dispensary assume the risk of injury or harm if they consume any marijuana product. Similar to the disclaimer on cigarette packs. Example: Neither the City, County or any other public agency has tested or inspected any marijuana product distributed at this location. 	<p><u>Conditions</u></p> <ul style="list-style-type: none"> • Dispensary size not to exceed 8,000 square feet maximum. • Require on-site security during business hours. • Require Fire, Burglary, and Robbery Alarm System. • Lighting requirements. • Require a door locking system. • Require security cameras - retain recording for no less than 30 days. • Business hours - 7 AM – 9 PM. • Criminal history – All staff, owners and volunteers not convicted of a felony. • No minors as employees. • No on-site consumption. • No on-site alcohol consumption or sales – facility may not maintain an ABC license. • Require posting sign on all marijuana products that states patrons/members of the dispensary assume the risk of injury or harm if they consume any marijuana product. Similar to the disclaimer on cigarette packs. Example: Neither the City, County or any other public agency has tested or inspected any marijuana product distributed at this location.

<p align="center">Option 3 (Approved by City Council July 27, 2010)</p>	<p align="center">Modified Approach</p>
<p><u>Permits</u></p> <ul style="list-style-type: none"> • Annual Renewal. • Non-Transferable unless approved by the City Manager. • Lottery Process whenever the dispensary permits in the City fall below 12. 	<p><u>Permits</u></p> <ul style="list-style-type: none"> • Annual Renewal. • Non-Transferable
<p><u>Fees</u></p> <ul style="list-style-type: none"> • Fee schedule to provide for full recovery of program costs. • Application Fee, Permit Fee, Pre-inspection fee, & Renewal Fee. 	<p><u>Fees</u></p> <ul style="list-style-type: none"> • Fee schedule to provide for full recovery of program costs. • Application Fee, Permit Fee, Pre-inspection fee, & Renewal Fee.
<p><u>Appeals</u></p> <ul style="list-style-type: none"> • Title 5 Permit - City Manager's decision is final with no appeal to council. • Title 17 Special Permit – Appeal to Planning Commission 	<p><u>Appeals</u></p> <ul style="list-style-type: none"> • Title 5 Permit - City Manager's decision is final with no appeal to council. • Title 17 Special Permit – Appeal of Zoning Administrator decision to Planning Commission and call up by council; appeal and call up of Planning Commission decision to City Council.
<p><u>Enforcement</u></p> <ul style="list-style-type: none"> • On-going Inspection & Monitoring by Code Enforcement (Revoke permit for non compliance). • Code Enforcement will be the primary enforcement i.e. nuisance complaints, however criminal incidents will be dealt with through the Sacramento Police Department. • Hours of operation restricted to police response. 	<p><u>Enforcement</u></p> <ul style="list-style-type: none"> • On-going Inspection & Monitoring by Code Enforcement (Revoke permit for non compliance). • Code Enforcement will be the primary enforcement i.e. nuisance complaints, however criminal incidents will be dealt with through the Sacramento Police Department. • Hours of operation restricted to police response.
<p><u>Violations</u></p> <ul style="list-style-type: none"> • Misdemeanor, civil and administrative penalties for any person that violates the ordinance. • Civil penalties of not less than two hundred fifty dollars (\$250.00) or more than twenty-five thousand dollars (\$25,000.00) for each day the violation continues. 	<p><u>Violations</u></p> <ul style="list-style-type: none"> • Misdemeanor, civil and administrative penalties for any person that violates the ordinance. • Civil penalties of not less than two hundred fifty dollars (\$250.00) or more than twenty-five thousand dollars (\$25,000.00) for each day the violation continues.

Attachment 3

Title 17 Proposed Ordinance (Redlined)

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE AMENDING SECTIONS 17.16.010, 17.24.030, 17.24.050, 17.108.020, AND 17.108.030 OF TITLE 17 OF THE SACRAMENTO CITY CODE (THE ZONING CODE) RELATING TO MEDICAL MARIJUANA DISPENSARIES (M10-015)

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. Section 17.16.010 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. The following definitions are added to Section 17.16.010 to read as follows:

“Medical marijuana dispensary” means a facility as defined in Chapter 5.150.

B. Except as amended in subsection A, above, Section 17.16.010 remains unchanged and in full force and effect.

SECTION 2. Section 17.24.030 Commercial Land Use Chart of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. A matrix for “medical marijuana dispensary” is added to Table 17.24.030 A to read as follows:

Uses Allowed	RE	R-1	R-1A	R-1B	R-2	R-2A	R-2B	R-3	R-3A	R-4	R-4A	R-5	RMX	RO	OB
Medical marijuana dispensary*															

B. A matrix for “medical marijuana dispensary” is added to Table 17.24.030 B to read as follows:

Uses Allowed	EC	HC	SC	C-1	C-2	C-3	C-4	M-1	M-1(S)	M-2	M-2(S)	MIP	MRD	H	SPX	TC	A	AOS	F	AR P-F
Medical marijuana dispensary*					85		85	85	20/85	85	20/85									

C. Except as specifically amended to add a matrix for "medical marijuana dispensary," Section 17.24.030 and Tables 17.24.030 A and 17.24.030 B remain unchanged and in full force and effect.

SECTION 3. Section 17.24.050 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. Footnote 85 is added to Section 17.24.050 to read as follows:

85. Medical Marijuana Dispensary.

a. Definitions.

As used in this Footnote 85:

"Church/faith congregation" means a structure or place that is used primarily for religious worship and related religious activities.

"Park" means all publicly owned and operated parks that are used, operated or maintained for recreational purposes.

"Substance abuse rehabilitation center" means any facility that provides care for persons who have a dependency on alcohol or controlled substances, or both alcohol and controlled substances. This care shall include, but not be limited to, the following basic services: medication, patient counseling, group therapy, physical conditioning, family therapy, and dietetic services. This definition does not include any hospital, city or county jail, or state prison.

"Youth-oriented facility" means any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors.

b. Medical Marijuana Dispensary Permit Required. A medical marijuana dispensary must obtain and maintain at all times a valid medical marijuana dispensary permit as required by Chapter 5.150.

c. Special Permit Required.

i. Except as provided in subsection (c)(ii), below, a planning commission special permit is required to establish or operate a medical marijuana dispensary in this zone.

ii. A zoning administrator's special permit is required to establish or operate a medical marijuana dispensary located in the C-4, M-1, M-1(S), M-2, and M-2(S) zones if all of the location requirements and development standards set forth below are satisfied.

d. Location and Permit Requirements. Except as provided in subsection (m), below, the following location requirements apply to all medical marijuana dispensaries and may not be waived or modified by special permit or variance:

i. No medical marijuana dispensary shall be established or located within 1,000 feet, measured from the nearest property lines of each of the affected parcels, of any other medical marijuana dispensary.

ii. No medical marijuana dispensary shall be established or located within 300 feet, measured from the nearest property lines of each of the affected parcels, of any existing residential zone or residential use.

iii. No medical marijuana dispensary shall be established or located within 600 feet, measured from the nearest property lines of each of the affected parcels, of any park, school (public or private K-12), child care center, child care-family day care home (large or small), youth-oriented facility, church/faith congregation, substance abuse center, movie theater/cinema, or tobacco store.

e. Relevant Date for Determining Compliance with Location Requirements. Only those uses established and in operation as of the date that the application for a medical marijuana dispensary special permit is determined or deemed to be complete shall be considered for purposes of determining whether the location requirements are met.

f. The zoning administrator or planning commission may address development and operational standards through conditions on the special permit as it determines to be necessary or appropriate for the medical marijuana dispensary special permit under consideration; provided, that conditions shall not conflict with the provisions of Chapter 5.150 relating to operating requirements of medical marijuana dispensaries and shall be subordinate to conditions placed on the medical marijuana program permit issued under Chapter 5.150.

g. Parking. Off-street parking shall be provided as required for retail stores under Section 17.64.020.

h. The application for a special permit for a medical marijuana dispensary shall include a floor plan, site plan, neighborhood context map, and a security and lighting plan.

i. Findings. In granting a special permit for a medical marijuana dispensary, and in addition to the findings required by Chapter 17.212, the planning commission or zoning administrator shall find the following:

i. The medical marijuana dispensary has not generated an excessive

number of calls for police service compared to similarly situated businesses of the same size as the dispensary.

ii. The medical marijuana dispensary has not caused secondary criminal or public nuisance impacts in the surrounding area or neighborhood, including, but not limited to, disturbances of the peace, illegal drug activity, marijuana use in public, harassment of passersby, littering, loitering, illegal parking, loud noises, or lewd conduct.

iii. The proposed location, size, and other development standards of the medical marijuana dispensary are consistent with state law and this code.

j. Discontinuance. Notwithstanding the provisions of Section 17.212.100(G), a special permit for a medical marijuana dispensary, the exercise of which is voluntarily or involuntarily interrupted for a period in excess of one year, shall be deemed automatically revoked.

k. Pre-Existing Medical Marijuana Dispensaries Not Non-Conforming. No medical marijuana dispensary operating or purporting to operate prior to the effective date of the ordinance that added this Footnote 85 to Section 17.24.050 shall be deemed to have been a legally established use under the provisions of this code and shall not be a legal nonconforming use under this Title 17.

l. Additional Grounds for Revocation of Medical Marijuana Dispensary Special Permit. In addition to the circumstances stated in Section 17.212.080 for revocation of a special permit, a special permit for a medical marijuana dispensary may be revoked on the following grounds:

i. The medical marijuana dispensary is operated in a manner that violates any of the provisions of state law or this code; or

ii. The medical marijuana dispensary does not have a valid medical marijuana dispensary permit as required by Chapter 5.150.

m. Registered Medical Marijuana Dispensaries.

i. Definitions. For purposes of this subsection (m),

(A) "Registered medical marijuana dispensary" means a medical marijuana dispensary:

(1) that was properly registered with the city manager pursuant to Ordinance No. 2009-033; and

(2) that is operating and has operated continuously at the location for

which a special permit is requested since at least October 26, 2010; and

(3) that is organized and operates as a cooperative or a collective within the meaning of Chapter 5.150; and

(4) the location of which does not meet the location requirements stated in subsection (d), above; and

(5) the owner and operator of which has not been cited or convicted of maintaining a public nuisance or of a public safety violation of state or local law relating to the operation of a medical marijuana dispensary by the city or other governmental law enforcement agency.

(B) "Medical marijuana dispensary registration" or "registration" means a medical marijuana dispensary's registration with the city manager pursuant to Ordinance No. 2009-033.

ii. Limitations and Requirements for Registered Medical Marijuana Dispensary Special Permits. If a special permit is requested and approved for a registered medical marijuana dispensary under this subsection (m), the following limitations and requirements shall apply to the special permit, and these limitations and requirements shall control over any other provisions of this title that may conflict:

(A) The applicant for the special permit must be the same owner(s) or principal(s) named on the medical marijuana dispensary's registration as of July 27, 2010, and must be a managing member of the registered medical marijuana dispensary. The application must be for the registered dispensary's location established as of October 26, 2010.

(B) The location requirements stated in subsection (d), above, shall not apply.

(C) The special permit shall be deemed automatically revoked if the medical marijuana dispensary ceases operation at any time, voluntarily or involuntarily, for 30 consecutive days.

(D) The special permit shall be deemed automatically revoked if the medical marijuana dispensary fails to obtain a medical marijuana dispensary permit under Chapter 5.150 and commence operation within 90 days of the date of approval of the special permit.

(E) The special permit shall be deemed automatically revoked upon transfer of ownership or management control of the dispensary to another person.

(F) The special permit shall be deemed automatically revoked upon revocation of the medical marijuana dispensary permit issued under Chapter 5.150.

(G) A special permit modification may not be approved to allow an expansion of the registered medical marijuana dispensary.

B. Except as specifically amended to add Footnote 85, Section 17.24.050 remains unchanged and in full force and effect.

SECTION 4. Section 17.108.020 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. Subsection A of Section 17.108.020 is amended to read as follows:

A. Prohibited Uses. In addition to other uses prohibited in the underlying zone, the following additional uses are prohibited for properties with C-2 zoning in the Del Paso Boulevard SPD:

1. Adult entertainment business;
2. Adult related establishment;
3. Astrology and related practices;
4. Tattoo and/or body piercing parlors;
5. Used appliance sales;
6. Auto sales (new and used), storage;
7. RV/mobilehome sales yard;
8. RV storage;
9. RV repair;
10. Mini-storage/surface storage;
11. Used tire storage and sales;
12. Check cashing center;
13. Money lender;
14. Mortuary;
15. Card room;
16. Bingo activities licensed under Chapter 5.24 of this code;
17. Retail tobacco store;
18. Laundromat;
19. Medical marijuana dispensary.

B. Except as specifically amended by the amendment to subsection A, Section 17.108.020 remains unchanged and in full force and effect.

SECTION 5. Section 17.108.030 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. Subsection A of Section 17.108.030 is amended to read as follows:

A. Prohibited Uses. In addition to other uses prohibited in the underlying zone,

the following additional uses are prohibited for properties with M-1 zoning in the Del Paso Boulevard SPD:

1. Adult entertainment business;
2. Adult related establishment;
3. Astrology and related practices;
4. Tattoo and/or body piercing parlors;
5. Used appliance sales;
6. Auto sales (new and used), storage;
7. RV/mobilehome sales yard;
8. RV storage;
9. RV repair;
10. Recycling facilities;
11. Auto dismantler;
12. Used tire storage and sales;
13. Check cashing center;
14. Money lender;
15. Pawn shop;
16. Mortuary;
17. Card room;
18. Bingo activities licensed under Chapter 5.24 of this code;
19. Retail tobacco stores;
20. Laundromat;
21. Medical marijuana dispensary.

B. Except as specifically amended by the amendment to subsection A, Section 17.108.030 remains unchanged and in full force and effect.

SECTION 6. Effective Date.

This Ordinance shall take effect 60 days after adoption.

SECTION 7. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, that decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

Title 17 Proposed Ordinance (Clean Copy)

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE AMENDING SECTIONS 17.16.010, 17.24.030, 17.24.050, 17.108.020, AND 17.108.030 OF TITLE 17 OF THE SACRAMENTO CITY CODE (THE ZONING CODE) RELATING TO MEDICAL MARIJUANA DISPENSARIES (M10-015)

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. Section 17.16.010 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. The following definitions are added to Section 17.16.010 to read as follows:

“Medical marijuana dispensary” means a facility as defined in Chapter 5.150.

B. Except as amended in subsection A, above, Section 17.16.010 remains unchanged and in full force and effect.

SECTION 2. Section 17.24.030 Commercial Land Use Chart of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. A matrix for “medical marijuana dispensary” is added to Table 17.24.030 A to read as follows:

Uses Allowed	RE	R-1	R-1A	R-1B	R-2	R-2A	R-2B	R-3	R-3A	R-4	R-4A	R-5	RMX	RO	OB
Medical marijuana dispensary*															

B. A matrix for “medical marijuana dispensary” is added to Table 17.24.030 B to read as follows:

Uses Allowed	EC	HC	SC	C-1	C-2	C-3	C-4	M-1	M-1(S)	M-2	M-2(S)	MIP	MRD	H	SPX	TC	A	AOS	F	AR P-F
Medical marijuana dispensary*					85		85	85	20/85	85	20/85									

C. Except as specifically amended to add a matrix for "medical marijuana dispensary," Section 17.24.030 and Tables 17.24.030 A and 17.24.030 B remain unchanged and in full force and effect.

SECTION 3. Section 17.24.050 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. Footnote 85 is added to Section 17.24.050 to read as follows:

85. Medical Marijuana Dispensary.

a. Definitions.

As used in this Footnote 85:

"Church/faith congregation" means a structure or place that is used primarily for religious worship and related religious activities.

"Park" means all publicly owned and operated parks that are used, operated or maintained for recreational purposes.

"Substance abuse rehabilitation center" means any facility that provides care for persons who have a dependency on alcohol or controlled substances, or both alcohol and controlled substances. This care shall include, but not be limited to, the following basic services: medication, patient counseling, group therapy, physical conditioning, family therapy, and dietetic services. This definition does not include any hospital, city or county jail, or state prison.

"Youth-oriented facility" means any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors.

b. Medical Marijuana Dispensary Permit Required. A medical marijuana dispensary must obtain and maintain at all times a valid medical marijuana dispensary permit as required by Chapter 5.150.

c. Special Permit Required.

i. Except as provided in subsection (c)(ii), below, a planning commission special permit is required to establish or operate a medical marijuana dispensary in this zone.

ii. A zoning administrator's special permit is required to establish or operate a medical marijuana dispensary located in the C-4, M-1, M-1(S), M-2, and M-

2(S) zones if all of the location requirements and development standards set forth below are satisfied.

d. **Location and Permit Requirements.** Except as provided in subsection (m), below, the following location requirements apply to all medical marijuana dispensaries and may not be waived or modified by special permit or variance:

i. No medical marijuana dispensary shall be established or located within 1,000 feet, measured from the nearest property lines of each of the affected parcels, of any other medical marijuana dispensary.

ii. No medical marijuana dispensary shall be established or located within 300 feet, measured from the nearest property lines of each of the affected parcels, of any existing residential zone or residential use.

iii. No medical marijuana dispensary shall be established or located within 600 feet, measured from the nearest property lines of each of the affected parcels, of any park, school (public or private K-12), child care center, child care-family day care home (large or small), youth-oriented facility, church/faith congregation, substance abuse center, movie theater/cinema, or tobacco store.

e. **Relevant Date for Determining Compliance with Location Requirements.** Only those uses established and in operation as of the date that the application for a medical marijuana dispensary special permit is determined or deemed to be complete shall be considered for purposes of determining whether the location requirements are met.

f. The zoning administrator or planning commission may address development and operational standards through conditions on the special permit as it determines to be necessary or appropriate for the medical marijuana dispensary special permit under consideration; provided, that conditions shall not conflict with the provisions of Chapter 5.150 relating to operating requirements of medical marijuana dispensaries and shall be subordinate to conditions placed on the medical marijuana program permit issued under Chapter 5.150.

g. **Parking.** Off-street parking shall be provided as required for retail stores under Section 17.64.020.

h. The application for a special permit for a medical marijuana dispensary shall include a floor plan, site plan, neighborhood context map, and a security and lighting plan.

i. **Findings.** In granting a special permit for a medical marijuana dispensary, and in addition to the findings required by Chapter 17.212, the planning commission or zoning administrator shall find the following:

i. The medical marijuana dispensary has not generated an excessive number of calls for police service compared to similarly situated businesses of the same size as the dispensary.

ii. The medical marijuana dispensary has not caused secondary criminal or public nuisance impacts in the surrounding area or neighborhood, including, but not limited to, disturbances of the peace, illegal drug activity, marijuana use in public, harassment of passersby, littering, loitering, illegal parking, loud noises, or lewd conduct.

iii. The proposed location, size, and other development standards of the medical marijuana dispensary are consistent with state law and this code.

j. **Discontinuance.** Notwithstanding the provisions of Section 17.212.100(G), a special permit for a medical marijuana dispensary, the exercise of which is voluntarily or involuntarily interrupted for a period in excess of one year, shall be deemed automatically revoked.

k. **Pre-Existing Medical Marijuana Dispensaries Not Non-Conforming.** No medical marijuana dispensary operating or purporting to operate prior to the effective date of the ordinance that added this Footnote 85 to Section 17.24.050 shall be deemed to have been a legally established use under the provisions of this code and shall not be a legal nonconforming use under this Title 17.

l. **Additional Grounds for Revocation of Medical Marijuana Dispensary Special Permit.** In addition to the circumstances stated in Section 17.212.080 for revocation of a special permit, a special permit for a medical marijuana dispensary may be revoked on the following grounds:

i. The medical marijuana dispensary is operated in a manner that violates any of the provisions of state law or this code; or

ii. The medical marijuana dispensary does not have a valid medical marijuana dispensary permit as required by Chapter 5.150.

m. **Registered Medical Marijuana Dispensaries.**

i. **Definitions.** For purposes of this subsection (m),

(A) "Registered medical marijuana dispensary" means a medical marijuana dispensary:

(1) that was properly registered with the city manager pursuant to Ordinance No. 2009-033; and

(2) that is operating and has operated continuously at the location for which a special permit is requested since at least October 26, 2010; and

(3) that is organized and operates as a cooperative or a collective within the meaning of Chapter 5.150; and

(4) the location of which does not meet the location requirements stated in subsection (d), above; and

(5) the owner and operator of which has not been cited or convicted of maintaining a public nuisance or of a public safety violation of state or local law relating to the operation of a medical marijuana dispensary by the city or other governmental law enforcement agency.

(B) "Medical marijuana dispensary registration" or "registration" means a medical marijuana dispensary's registration with the city manager pursuant to Ordinance No. 2009-033.

ii. **Limitations and Requirements for Registered Medical Marijuana Dispensary Special Permits.** If a special permit is requested and approved for a registered medical marijuana dispensary under this subsection (m), the following limitations and requirements shall apply to the special permit, and these limitations and requirements shall control over any other provisions of this title that may conflict:

(A) The applicant for the special permit must be the same owner(s) or principal(s) named on the medical marijuana dispensary's registration as of July 27, 2010, and must be a managing member of the registered medical marijuana dispensary. The application must be for the registered dispensary's location established as of October 26, 2010.

(B) The location requirements stated in subsection (d), above, shall not apply.

(C) The special permit shall be deemed automatically revoked if the medical marijuana dispensary ceases operation at any time, voluntarily or involuntarily, for 30 consecutive days.

(D) The special permit shall be deemed automatically revoked if the medical marijuana dispensary fails to obtain a medical marijuana dispensary permit under Chapter 5.150 and commence operation within 90 days of the date of approval of the special permit.

(E) The special permit shall be deemed automatically revoked upon transfer of ownership or management control of the dispensary to another person.

(F) The special permit shall be deemed automatically revoked upon

revocation of the medical marijuana dispensary permit issued under Chapter 5.150.

(G) A special permit modification may not be approved to allow an expansion of the registered medical marijuana dispensary.

B. Except as specifically amended to add Footnote 85, Section 17.24.050 remains unchanged and in full force and effect.

SECTION 4. Section 17.108.020 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. Subsection A of Section 17.108.020 is amended to read as follows:

A. Prohibited Uses. In addition to other uses prohibited in the underlying zone, the following additional uses are prohibited for properties with C-2 zoning in the Del Paso Boulevard SPD:

1. Adult entertainment business;
2. Adult related establishment;
3. Astrology and related practices;
4. Tattoo and/or body piercing parlors;
5. Used appliance sales;
6. Auto sales (new and used), storage;
7. RV/mobilehome sales yard;
8. RV storage;
9. RV repair;
10. Mini-storage/surface storage;
11. Used tire storage and sales;
12. Check cashing center;
13. Money lender;
14. Mortuary;
15. Card room;
16. Bingo activities licensed under Chapter 5.24 of this code;
17. Retail tobacco store;
18. Laundromat;
19. Medical marijuana dispensary.

B. Except as specifically amended by the amendment to subsection A, Section 17.108.020 remains unchanged and in full force and effect.

SECTION 5. Section 17.108.030 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. Subsection A of Section 17.108.030 is amended to read as follows:

A. Prohibited Uses. In addition to other uses prohibited in the underlying zone, the following additional uses are prohibited for properties with M-1 zoning in the

Del Paso Boulevard SPD:

1. Adult entertainment business;
2. Adult related establishment;
3. Astrology and related practices;
4. Tattoo and/or body piercing parlors;
5. Used appliance sales;
6. Auto sales (new and used), storage;
7. RV/mobilehome sales yard;
8. RV storage;
9. RV repair;
10. Recycling facilities;
11. Auto dismantler;
12. Used tire storage and sales;
13. Check cashing center;
14. Money lender;
15. Pawn shop;
16. Mortuary;
17. Card room;
18. Bingo activities licensed under Chapter 5.24 of this code;
19. Retail tobacco stores;
20. Laundromat;
21. Medical marijuana dispensary.

B. Except as specifically amended by the amendment to subsection A, Section 17.108.030 remains unchanged and in full force and effect.

SECTION 6. Effective Date.

This Ordinance shall take effect 60 days after adoption.

SECTION 7. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, that decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

Attachment 5

Resolution Title 17 Proposed Fees

RESOLUTION NO.

Adopted by the Sacramento City Council

November 9, 2010

A RESOLUTION AMENDING COMMUNITY DEVELOPMENT DEPARTMENT FEES AND CHARGES TO ESTABLISH SPECIAL PERMIT FEES FOR MEDICAL MARIJUANA DISPENSARIES (M10-015)

BACKGROUND

- A. WHEREAS, the City Council has adopted Section 17. of the Sacramento City Code, requiring a Special Permit for medical marijuana facilities.
- B. WHEREAS, Section 17.196.040 of the Sacramento City Code authorizes the processing fee for Special Permit applications.
- C. Proposed new fees are set forth in Exhibit A.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The City of Sacramento Fee and Charge Report, Community Development Department, is hereby amended, as set forth in Exhibit A, to establish the fees authorized by Section 17.196.040 of the Sacramento City Code.
- Section 2. Exhibit A forms part of this resolution
- Section 3. This resolution shall become effective on the date that the ordinance adopting the Sacramento City Code Sections 17.16.010, 17.24.030, 17.24.050, 17.108.020 and 17.108.030 becomes effective.

Table of Contents:

Exhibit A – Special Permit Fees Relating to Medical Marijuana Dispensaries

EXHIBIT A

NEW SPECIAL PERMIT FEES

Note: All Planning Application Filing Fees listed in this Fee and Charge Report show only "initial filing fees". In the event that the actual cost of processing an application exceeds the staff processing component of the initial filing fee, the applicant shall pay an additional fee equal to this excess cost after receipt of written notice from the planning director specifying the additional amount due (SCC 17.196.040A)

Fee Name: Planning Commission Special Permit Medical Marijuana Dispensary

Current Fee: \$0

Proposed Fee: \$19,415.00 deposit, with cost recovery at \$140.per hour. Environmental Fee category A1

Justification: Recover costs associated with processing a special permit for a medical marijuana dispensary. Costs include noticing, research, community outreach, meetings, preparation of reports, administrative support, hearing costs, maintenance of documents for official records.

Fee Name: Zoning Administrator Special Permit Medical Marijuana Dispensary

Current Fee: \$0

Proposed Fee: \$13,815.00

Justification: Recover costs associated with processing a special permit for a medical marijuana dispensary. Costs include noticing, research, community outreach, meetings, preparation of reports, administrative support, hearing costs, maintenance of documents for official records.

Fee Name: Zoning Administrator Special Permit Major Modification Medical Marijuana Dispensary

Current Fee: \$0

Proposed Fee: \$3,500

Justification: Recover costs associated with processing a modification to a special permit for a medical marijuana dispensary. Costs include noticing, research, community outreach, meetings, preparation of reports, administrative support, hearing costs, maintenance of documents for official records.

Attachment 5

Title 5 Proposed Ordinance

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

**AN ORDINANCE ADDING CHAPTER 5.150 TO TITLE 5 OF THE
SACRAMENTO CITY CODE AND REPEALING ORDINANCE
NO. 2009 -033, AND ORDINANCE NO. 2009-041, RELATING TO
MEDICAL MARIJUANA DISPENSARIES**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Chapter 5.150 is added to the Sacramento City Code to read as follows:

Chapter 5.150

MEDICAL MARIJUANA DISPENSARIES

5.150.010 Purpose and intent.

In 1996 California voters approved Proposition 215, entitled "The Compassionate Use Act," that was later codified at Health and Safety Code section 11362.5. The Compassionate Use Act ensures that qualified patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction under state law. In 2003 the state enacted Senate Bill 420, known as the Medical Marijuana Program, codified at Health and Safety Code sections 11362.7 et seq. The Medical Marijuana Program was intended to supplement the provisions, and clarify the intent, of the Compassionate Use Act and to allow cities to adopt and enforce rules and regulations consistent with the Medical Marijuana Program.

It is the purpose and intent of the city council to regulate medical marijuana dispensaries consistent with the Medical Marijuana Program and to protect the health, safety, and welfare of the residents of the City of Sacramento. The regulations in this chapter do not interfere with a qualified patient's right to obtain and use marijuana as authorized under state law, nor do they criminalize the possession or cultivation of marijuana by qualified patients or their primary caregivers. Medical marijuana dispensaries shall comply with all provisions of the Sacramento City Code, state law, and all other applicable local codes and regulations. It is neither the intent nor the

effect of this chapter to condone or legitimize the illegal use or consumption of marijuana under federal, state, or local law.

5.150.020 Definitions.

As used in this chapter:

"City manager" means the city manager or designee.

"Dispensary" shall have the same definition as "medical marijuana dispensary," as set forth in this section.

"Dispensary area" means the dispensary property and the area within 100 feet of the dispensary property.

"Dispensary building" means the portion of a building within which a dispensary is operated.

"Dispensary permit" means a medical marijuana dispensary permit issued pursuant to this chapter.

"Dispensary property" means the parcel of real property or portion of the parcel of real property that is owned or leased by a dispensary and upon which a dispensary is operated.

"Drug paraphernalia" shall have the same definition as set forth in California Health and Safety Code section 11364.5.

"Identification card" shall have the same definition as set forth in California Health and Safety Code section 11362.7.

"Marijuana" shall have the same definition as set forth in California Health and Safety Code section 11018.

"Medical marijuana" means marijuana used for medical purposes in accordance with the Compassionate Use Act (California Health and Safety Code section 11362.5) and the Medical Marijuana Program Act (California Health and Safety Code sections 11362.7 et seq.).

"Medical marijuana dispensary" means a cooperative or collective of four or more members who associate at a particular location or real property to collectively or cooperatively distribute marijuana to members for medical purposes, and operate on a not-for-profit basis, consistent with California Health and Safety Code section 11362.5, Article 2.5 of Chapter 6 of Division 10 of the Health and Safety Code (Health and Safety Code sections 11362.7 et seq.), the Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued by the California Attorney General in August

2008, and this chapter. A medical marijuana dispensary shall not include the following uses: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code; a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code; a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code; a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code; and a residential hospice or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code, as long as any such use complies with applicable laws including, but not limited to, California Health and Safety Code section 11362.5, Article 2.5 of Chapter 6 of Division 10 of the Health and Safety Code (Health and Safety Code sections 11362.7 et seq.), and the Sacramento City Code.

"Management member" means a member with responsibility for the establishment, registration, supervision, or oversight of the operation of a medical marijuana dispensary, including but not limited to, a member who performs the functions of a board member, director, officer, owner, operating officer, or manager of the dispensary.

"Member" means any qualified patient, primary caregiver, or person with an identification card who is registered with a medical marijuana dispensary.

"Juvenile" means any natural person who is under the age of 18 years.

"Operate a dispensary" means to engage in or conduct the not-for-profit business of a dispensary, including, but not limited to, distributing medical marijuana and maintaining the facilities of a dispensary.

"Person with an identification card" shall have the same definition as set forth in California Health and Safety Code section 11362.7.

"Physician" means a licensed medical doctor as defined in California Business and Professions Code section 4039.

"Primary caregiver" shall have the same definition as set forth in California Health and Safety Code section 11362.7.

"Private medical records" means records related to the medical history of a qualified patient and includes the recommendation of a physician for the medical use of medical marijuana and the designation of a primary caregiver by a qualified patient.

"Qualified patient" shall have the same definition as set forth in California Health and Safety Code section 11362.7.

"Reasonable compensation" means compensation commensurate with wages and benefits paid to officers and employees of other not-for-profit organizations who

have similar job descriptions and duties, required level of education and experience, prior individual earnings history, and number of hours worked.

"Special permit" means any special permit issued by the city pursuant to Title 17 of this code related to the operation of a medical marijuana dispensary.

5.150.030 Medical marijuana dispensary permit required to operate.

- A. No person shall operate a medical marijuana dispensary unless the dispensary has a valid medical marijuana dispensary permit issued pursuant to this chapter.
- B. Neither the obtaining of a dispensary permit nor compliance with the operating standards provided in this chapter shall excuse any violation of this code or state law.

5.150.040 Registered medical marijuana dispensaries.

- A. For purposes of this section a "registered medical marijuana dispensary" means a dispensary: (1) that was properly registered with the city manager pursuant to Ordinance No. 2009-033; and (2) that is operating and has operated continuously at the location for which a dispensary permit is requested since at least October 26, 2010; and (3) that is organized and operates as a cooperative or collective within the meaning of this chapter; and (4) the owner and operator of which has not been cited or convicted of maintaining a public nuisance or of a public safety violation of state or local law relating to the operation of a medical marijuana dispensary by the city or any governmental law enforcement agency.
- B. An application for a dispensary permit may only be filed by a registered medical marijuana dispensary.
- C. The applicant for the dispensary permit must be the same owner(s) or principal(s) named on the medical marijuana dispensary's registration as of July 27, 2010, and must be a management member of the registered medical marijuana dispensary. The application must be for the registered dispensary's location established as of October 26, 2010.
- D. Notwithstanding the provisions of Section 5.150.030, a person may continue to operate a registered medical marijuana dispensary without a dispensary permit until February 7, 2011. If an application for a dispensary permit is properly filed, a person may continue to operate that dispensary without a dispensary permit until January 9, 2012, and while the application's approval is pending.
- E. The authorization to continue to operate a dispensary pursuant to subsection D of this section shall not entitle the applicant to an approval of their dispensary permit application, a determination that the dispensary is a legally established use under the provisions of this code, or legal nonconforming status.

5.150.050 Phase one applications for medical marijuana dispensary permit.

A. Phase one applications for dispensary permits shall be filed with the city manager's office no later than February 7, 2011. Applications shall be on forms provided by the city and shall be accompanied by a non-refundable dispensary permit application fee, in the amount established by resolution of the city council. Applications received after February 7, 2011, shall be rejected.

B. The phase one application shall be signed by one or more management members under penalty of perjury and shall set forth in writing:

1. Identity of the dispensary. A description of the statutory entity or business form that will serve as the legal structure for the collective or cooperative and a copy of its formation and organizing documents, including but not limited to, articles of incorporation, certificate of amendment, statement of information, articles of association, bylaws, partnership agreement, operating agreement, and fictitious business name statement. If a corporation, limited liability company, or a general or limited partnership is a stockholder owning more than 10 percent of the stock or membership interest of an applicant's dispensary, or is one or more of the partners in an applicant's dispensary, the applicant shall set forth the names and addresses of each of the partners, officers, directors, and stockholders of the corporation, limited liability company, or general or limited partnership.

2. Management Information.

a. The name, address, telephone number, title, and function(s) of each management member of the dispensary.

b. For each management member, a legible copy of one valid government-issued form of photo identification, such as a state driver's license, a passport issued by the United States, or a permanent resident card.

3. Applicant's Phone Number and Mailing Address. The phone number and address to which notice of action on the application and future correspondence is to be mailed.

4. Previous Addresses. Previous addresses of the applicant for the past five years immediately prior to the present address.

5. Verification of Age. Evidence that the applicant and all management members of the dispensary are at least 18 years of age.

6. Criminal Background.

a. A list of each misdemeanor and/or felony conviction, if any, of the applicant and the management member(s), whether such conviction was by verdict,

plea of guilty, or plea of nolo contendere. The list shall, for each conviction, set forth the date of arrest, the offense charged, and the offense of which the applicant or management member was convicted.

b. The applicant and each management member shall consent to fingerprinting and a criminal background investigation.

7. **Employee Information.** Number of employees, volunteers, and other persons who will work or provide services at the dispensary.

8. **Plan of Operations.** A plan describing how the dispensary will operate consistent with state law and the provisions of this chapter, including controls to:

a. Ensure that medical marijuana is not purchased or sold by the dispensary in a manner that would generate a profit.

b. Ensure that medical marijuana will be distributed to members only.

c. Ensure that access to the dispensary property is adequately monitored and restricted to members.

9. **Dispensary Description.** A description of the proposed location, including the street address and parcel number, the square footage, the number of expected members, and the characteristics of the neighborhood or surrounding area.

10. **Response to Title 17.** An explanation of how the dispensary complies or expects to comply with Title 17 of this code, including but not limited to, the location requirements.

11. **Compliance with Applicable Taxes.** The applicant shall provide a current copy of its business operations tax certificate and state sales tax seller's permit.

12. **City Authorization.** Authorization and consent for the city manager to seek verification of the information contained within the application.

13. **Statement of Owners Consent.** Consent to operate a dispensary at the proposed location, specifying the street address and parcel number, from the owner or landlord, of the proposed location.

5.150.060 **Review of phase one application.**

A. Upon receiving a phase one application for a dispensary permit, the city manager shall determine whether the application is complete. If the city manager determines that the application is incomplete or has been completed improperly, the city manager shall notify the applicant. The city manager may grant the applicant an extension of up to ten days to complete the phase one application.

B. If the city manager determines that the phase one application is complete and, on the face of the application, there appears to be no basis for denial of the permit under Section 5.150.090, the city manager shall notify the applicant that it may continue to phase two in the application process pursuant to Section 5.150.070.

C. If the application is incomplete, or remains incomplete upon the expiration of any extension, the city manager may deny the application. If the city manager denies the phase one application, pursuant to the provisions of this section, written notice of denial shall be served on the applicant. Notwithstanding any provisions of this code to the contrary, the decision of the city manager shall be final and not subject to administrative appeal.

D. In the event of denial, the applicant shall cease operating the dispensary within 15 days from the date notice of denial is served on the applicant. Continued operations shall be unlawful and subject to the penalties in Section 5.150.220.

5.150.070 Review of phase two application.

A. If the city manager notifies the applicant that it may continue to phase two in the application process the applicant shall, no later than October 11, 2011, file a phase two application with the city manager's office, that includes the following:

1. A non-refundable dispensary permit program fee in the amount established by resolution of the city council. The dispensary permit program fee shall be in addition to any other fee imposed by this code.

2. Security Plan. A detailed security plan, prepared by a qualified professional, outlining the measures that will be taken to ensure the safety of persons and to protect the dispensary property from theft. The plan must include specifications and installations that secure the dispensary as follows:

a. All perimeter doorways shall meet one of the following:

i. A windowless steel security door equipped with both a dead bolt and a doorknob lock.

ii. A windowed metal door that is equipped with both a dead bolt and a doorknob lock. If the window has an opening of five inches or more measured in any direction, the window shall be covered with steel bars of at least 1/2-inch diameter or metal grating of at least 9 gauge affixed to the exterior or interior of the door.

iii. A metal grate that is padlocked and affixed to the dispensary's building independent of the door and doorframe.

b. All windows are covered with steel bars.

c. Heating, ventilating, air-conditioning, and service openings are secured with steel bars, metal grating, or an alarm system.

d. Any metal grates have spaces no larger than six inches wide measured in any direction.

e. Any metal screens have spaces no larger than three inches wide measured in any direction.

f. All steel bars shall be no further than six inches apart.

g. The installation of security cameras and centrally-monitored burglary, robbery, and fire alarm systems monitored by a licensed operator.

3. **Floor Plan.** A scaled floor plan for each level of the entire building showing the interior configuration of the dispensary building, including a statement of the total floor area occupied by the dispensary. The floor plan must include entrances, exits, restrooms, waiting area, office space, storage, and area for distributing marijuana to members. The floor plan must be professionally prepared by a licensed civil engineer or architect.

4. **Site Plan.** A scaled site plan of the parcel of real property on which the dispensary building is located, including the outline of all structures, driveways, parking and landscape areas, and boundaries of the parcel. The site plan must be professionally prepared by a licensed civil engineer or architect.

5. **Accessibility Evaluation.** A written evaluation of accessibility by the physically disabled to and within the building and identification of any planned accessibility improvements to comply with all state and federal disability access laws, including, but not limited to, Title 24 of the California Code of Regulations and the Americans with Disabilities Act. The evaluation must be professionally prepared by a licensed civil engineer or architect.

6. **Neighborhood Context Map.** An accurate straight-line drawing depicting the boundaries of the dispensary property, the boundaries of all other properties within 1000 feet of the dispensary property, and the uses of those properties, specifically including, but not limited to, any use identified in the location requirements of Title 17 of this code. The map must be professionally prepared by a licensed civil engineer or architect.

7. **Lighting Plan.** A lighting plan showing existing and proposed exterior and interior lighting levels that would be the minimum necessary to provide adequate security lighting for the use.

8. **Zoning Code Compliance.** A copy of a valid special permit approved by the city's zoning administrator or planning commission for the proposed dispensary location.

9. A copy of the dispensary's commercial general liability insurance policy and all other insurance policies related to the operation of the dispensary.

10. A copy of the dispensary's annual budget for operations.

11. A copy of the dispensary's most recent year's financial statement and tax return.

12. A list of the most recent prices for all products and services provided by the dispensary.

13. **Applicant's Certification.** A statement dated and signed by each management member, under penalty of perjury, that the management member has personal knowledge of the information contained in the phase one and phase two applications, that the information contained therein is true and correct, and that the applications have been completed under their supervision.

14. **Other Information.** Such other information as deemed necessary by the city manager to demonstrate compliance with this code.

B. Complete Application.

1. Upon receiving a phase two application, the city manager shall determine whether the application is complete. If the city manager determines that the application is incomplete or has been completed improperly, the city manager shall notify the applicant. The city manager may grant the applicant an extension up to ten days to complete the phase two application.

2. An application is not to be considered incomplete for purposes of this subsection B if the sole document remaining to be filed is a copy of the special permit referenced in subsection A (8) of this Section.

3. If the phase two application is incomplete, or remains incomplete upon the expiration of any extension, the city manager may deny the application. If the city manager denies the phase two application for being incomplete, pursuant to the provisions of this section, written notice of denial shall be served on the applicant. Notwithstanding any provisions of this code to the contrary, the decision of the city manager shall be final and not subject to administrative appeal.

4. In the event of denial, the applicant shall cease operating the dispensary within 15 days from the date notice of denial is served on the applicant. Continued operations shall be unlawful and subject to the penalties in Section 5.150.220.

5. If the city manager determines that the application is complete, the completion date of a phase two application shall be the date when the city manager notifies the applicant that it has received all of the information or materials required, including compliance with subsection (A)(8); has determined that the content in the submitted documents is responsive to the requirements; and has deemed the application complete

5.150.080 Notices.

All notices required by this chapter shall be deemed issued and served upon the date they are either deposited in the United States mail, postage pre-paid, addressed to the applicant or dispensary at the mailing address identified in its application, the last updated address on file with the city manager's office, or the mailing address on the appeal form; or the date upon which personal service of such notice is provided to the applicant or a management member identified on the application or appeal form.

5.150.090 Criteria for review.

The city manager may deny, revoke, or suspend a dispensary permit on the following grounds:

- A. The application(s) and/or documents submitted are incomplete, filed late, or not responsive to the requirements of this chapter.
- B. The issuance of the dispensary permit or operation of the dispensary at the proposed location is inconsistent with state law, the provisions of this chapter, or this code.
- C. The dispensary has generated an excessive number of calls for police service compared to similarly situated businesses of the same size as the dispensary.
- D. The dispensary has caused secondary criminal or public nuisance impacts in the surrounding area or neighborhood, including, but not limited to, disturbances of the peace, illegal drug activity, marijuana use in public, harassment of passersby, littering, loitering, illegal parking, loud noises, or lewd conduct.
- E. The applicant, management member, or any employee is a juvenile.
- F. The dispensary has a history of inadequate safeguards or procedures that show it would not comply with the operating requirements and standards in this chapter.
- G. The dispensary has failed to pay fees, penalties, or taxes required by this code or has failed to comply with the production of records or other reporting requirements of this chapter.

H. The proposed location does not comply with the provisions of this code or is prohibited by state law.

I. The site plan, floor plan, or security plan do not incorporate features necessary to assist in reducing potential crime-related problems as specified in Section 5.150.130. These features include, but are not limited to, security on site; procedure for allowing entry; openness to surveillance and control of the area, the perimeter, and surrounding properties; reduction of opportunities for congregating and obstructing public ways and neighboring property; illumination of exterior areas; and limiting outdoor furnishings and features that encourage loitering and nuisance behavior.

J. The dispensary or one or more management members, employees, or volunteers have violated a provision of this chapter.

K. The proposed location of the dispensary is likely to adversely affect the health, peace, or safety of persons living or working in the surrounding area or contribute to a public nuisance.

L. One or more provisions of this code, conditions of the dispensary permit, conditions imposed by another city issued permit, or any provision of any other local, state law or federal law, regulation, order, or permit has been violated.

M. It appears, based upon the information before the city manager, that the applicant has provided a false statement of material fact or has knowingly omitted a material fact in the application for, or renewal of, a dispensary permit.

N. The applicant or one or more management members, or employees has been convicted of a felony, or has engaged in misconduct that is substantially related to the qualifications, functions or duties of a dispensary operator. A conviction within the meaning of this section means a plea or verdict of guilty, or a conviction following a plea of nolo contendere. Notwithstanding the above, an application shall not be denied solely on the basis that the applicant, any management member or any employee has been convicted of a felony if the person convicted has obtained a certificate of rehabilitation (expungement of felony record) under California law or under a similar federal statute or state law where the expungement was granted.

O. The applicant or dispensary has previously or is currently engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices.

5.150.100 Payment of fees.

A. Every phase one application for a dispensary permit shall include a non-refundable dispensary permit application fee and every phase two application for a dispensary permit shall include a non-refundable dispensary permit program fee, in the amounts established by resolution of the city council.

B. In addition to any other fees, a dispensary shall be required to pay a non-refundable annual dispensary permit program fee at the time the dispensary submits an application for renewal, in the amount established by resolution of the city council

C. Any applicant or dispensary that files an appeal as provided by this chapter shall be required to pay a non-refundable appeal fee in the amount established by resolution of the city council.

D. In addition to any other city imposed fees, a dispensary shall be required to pay the applicable business operations tax pursuant to Title 3 of this code, and be subject to state law requirements regarding sales tax.

5.150.110 Issuance of Dispensary Permit

A. The city manager shall either grant or deny a dispensary permit within 90 days from the date the phase two application is complete as specified in Section 5.150.070(B)(5).

B. In granting a permit, the city manager may impose conditions on the permit.

C. Conditions placed on the medical marijuana dispensary special permit issued under Title 17 shall be conditions of the dispensary permit. Violations of the special permit's conditions are grounds for suspending or revoking the dispensary permit. Nothing in this section shall be construed to limit the authority of the city manager to place additional conditions upon the dispensary permit.

5.150.120 Request for reconsideration.

A. If the city manager denies the application for a dispensary permit after the application is accepted as complete, written notice of denial shall be served on the applicant. The notice shall contain:

1. A brief statement of the grounds for the denial.

2. A statement that the applicant may request reconsideration of the denial, in writing to the city manager, within ten days of the date of service of the notice.

3. A statement that the failure to request reconsideration of the denial will constitute a waiver of all rights to a hearing for reconsideration, and the denial will be final.

B. If the applicant properly files a request for reconsideration the city manager shall set the date of the hearing within 30 days from the date the request is filed. The hearing shall be conducted by the city manager.

C. Failure to properly file a written request for reconsideration of the notice of denial within ten days of the date of service of the notice shall constitute a waiver of all rights

to a hearing, and the city manager's decision shall be final. Failure to properly and timely file a request for reconsideration of the notice of denial shall also constitute a failure to exhaust administrative remedies and a bar to any judicial action pertaining to the city manager's decision.

D. If the applicant files a proper request for reconsideration and then fails to appear at the hearing, the request for reconsideration is abandoned, and the decision of the city manager is final and may not be further appealed. Failure to appear at the hearing constitutes a waiver of all rights to a hearing and shall also constitute a failure to exhaust administrative remedies and a bar to any judicial action pertaining to the city manager's decision.

E. Written notice of the decision of the city manager shall be served on the applicant within ten days following the hearing.

F. The decision of the city manager under this section shall be subject to appeal in accordance with Section 5.150.170.

5.150.130 Operating requirements.

Dispensary operations shall comply with the following:

A. **Criminal History.** No person who has been convicted of a felony, or who is currently on parole or probation for the sale or distribution of a controlled substance, shall operate the dispensary, or manage or handle the receipts, expenses or medical marijuana of the dispensary. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

B. **Juveniles.**

1. No juvenile shall operate a dispensary in any capacity, including but not limited to, as a management member, employee, contractor or volunteer.

2. No juvenile shall be allowed on the dispensary property unless they are a qualified patient or a primary caregiver, and they are accompanied by their parent or legal guardian.

C. **Operating Hours.** The maximum hours of operation shall be daily from 7:00 a.m. to 9:00 p.m. unless the city manager imposes more restrictive hours as a condition of the permit.

D. **Dispensary Size and Access.**

1. The dispensary building shall not exceed 8,000 square feet.

2. Management members, employees, and volunteers must be registered

members of the dispensary.

3. All entrances into the dispensary's building shall be locked from the exterior at all times with entry controlled by dispensary personnel.

4. Only dispensary members and persons with bona fide purposes for being in the dispensary shall be allowed entry into the dispensary property. Non-members shall be escorted by a management member at all times while in the dispensary building.

E. Dispensing Operations.

1. A dispensary shall only distribute to members that are:

a. Qualified patients with a currently valid physician's recommendation in compliance with the criteria in California Health and Safety Code sections 11362.5 et seq., and valid official identification such as a Department of Motor Vehicles driver's license or State Identification Card; or

b. Primary caregivers with a verified primary caregiver designation by their qualified patients, a copy of their qualified patient's valid physician's recommendation in compliance with the criteria in California Health and Safety Code sections 11362.5 et seq., and valid official identification such as a Department of Motor Vehicles driver's license or State Identification Card.

2. A dispensary shall not have a physician on the dispensary property to evaluate patients or provide a recommendation for medical marijuana.

3. Notwithstanding the provisions of Chapter 9.08 of this code to the contrary, up to 150 square feet of the dispensary building may be utilized for display and distribution of drug paraphernalia necessary for administering medical marijuana, including but not limited to, rolling papers and related materials and devices, pipes, water pipes, and vaporizers. Such paraphernalia may only be provided to members and shall not generate a profit.

4. A dispensary shall not conduct or engage in the commercial sale of products, goods, or services. The term "commercial sale" does not include the provision of marijuana paraphernalia as specified above in subsection 3, or the provision of services, for members only, that do not generate a profit and are incidental to the medicinal use of marijuana, such as yoga, meditation, and substance abuse counseling.

5. A dispensary shall not provide any form of a delivery service. All distribution of medical marijuana must be conducted within the enclosed building areas of the dispensary property.

F. Consumption Restrictions. Marijuana shall not be smoked, ingested or

otherwise consumed in any form on, or within 20 feet of, the dispensary property.

G. Dispensary Supply and Distribution

1. A dispensary may only possess an amount of medical marijuana consistent with each member's reasonable medical needs.

2. Except for immature nursery stock marijuana plants, no medical marijuana shall be grown or cultivated on the dispensary property.

3. A dispensary shall acquire its supply of medical marijuana only from its members.

4. A dispensary shall not purchase or otherwise supply itself with medical marijuana from non-members.

5. A dispensary shall operate on a not-for-profit basis. It may credit its members for medical marijuana they provide to it, which it may then distribute to other members. Members may also reimburse the dispensary for medical marijuana or marijuana paraphernalia that has been distributed to them. Any monetary reimbursement that members provide to the dispensary shall not exceed the dispensary's overhead costs and expenses for operating the dispensary, including reasonable compensation for services provided to members.

6. A dispensary shall not distribute or sell medical marijuana or marijuana paraphernalia to non-members or for a profit.

7. A dispensary shall comply with the operating criteria for the distribution of medical marijuana as required pursuant to California Health and Safety Code sections 11362.5 and 11362.7 et seq.

8. Dispensary operations shall not result in the diversion of marijuana for non-medical purposes in any manner that violates local or state law.

H. Operating Plans.

1. **Floor Plan.** A dispensary shall have a lobby waiting area at the entrance to receive persons to verify that they are members of that dispensary or to determine whether the person meets the criteria of a valid qualified patient or primary caregiver. A dispensary shall also have a separate and secure area designated for distributing medical marijuana to its members. The main entrance shall be located and maintained clear of barriers, landscaping, and similar obstructions so that it is clearly visible from public streets or sidewalks.

2. **Storage.** A dispensary shall have adequate locked storage on the dispensary property, identified and approved as a part of the security plan, for after-

hours storage of medical marijuana. Medical marijuana shall be stored at the dispensary property in secured rooms that are completely enclosed or in a safe that is bolted to the floor.

3. **Odor Control.** A dispensary shall have an air treatment system that prevents odors generated from the storage of marijuana on the dispensary property from being detected by any reasonable person of normal sensitivity outside the dispensary property.

4. **Security Plans.** A dispensary shall comply with a security plan that is approved by the city manager that includes, but is not limited to, building security specifications, lighting, alarms, and adequate state licensed security personnel to patrol the dispensary area in order to preserve the safety of persons and to protect the dispensary from theft.

5. **Security Cameras.** Security surveillance cameras and a video recording system shall be installed to monitor the interior, main entrance, and exterior dispensary area to discourage loitering, crime, and illegal or nuisance activities. The camera and recording system must be of adequate quality, color rendition, and resolution to allow the identification of any individual present in the dispensary area.

6. **Security Video Retention.** Video from the security surveillance cameras shall be maintained for a period of not less than 30 days and shall be made available to the city upon request.

7. **Alarm System.** Professionally and centrally-monitored fire, robbery, and burglar alarm systems shall be installed and maintained in good working condition.

8. **Concealed.** A dispensary shall not allow or permit medical marijuana to be visible from the building exterior.

9. **Emergency Contact.** A dispensary shall provide the city manager with the current name and primary and secondary telephone numbers of at least one 24-hour on-call management member to address and resolve complaints and to respond to operating problems or concerns associated with the dispensary. The dispensary shall make good faith efforts to encourage neighborhood residents to call this person to solve operating problems, if any, before any calls or complaints are made to the city.

I. **Signage**

1. The following signs in measurements of not less than eight by ten inches shall be clearly and legibly posted in a conspicuous location inside the dispensary where they will be visible to members in the normal course of a transaction, stating:

a. "Smoking, ingesting or consuming marijuana on this property or within 100 feet of the dispensary is prohibited."

b. "Juveniles are prohibited from entering this property unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or legal guardian."

c. "Neither the City of Sacramento, County of Sacramento, nor any other governmental agency has tested or inspected any marijuana product for pesticides, or other regulated contaminants, distributed at this location."

d. "The sale of marijuana and the diversion of marijuana for non-medical purposes are violations of state law."

2. Signs on the dispensary building shall not obstruct the entrance or windows of the dispensary.

J. Maintenance of Records.

1. A dispensary shall maintain the following records on the dispensary property:

a. The name, address, and telephone number(s) of the owner and/or landlord of the dispensary property.

b. The name, address, and telephone number(s) of each member and management member who participates in the cultivation of medical marijuana for the benefit of the dispensary.

c. The name, date of birth, physical address, and telephone number(s) of each member and management member of the dispensary; the date each member and management member joined the dispensary; the nature of each member's and management member's participation in the dispensary; and the status of each member and management member as a qualified patient or primary caregiver.

d. A copy of each member's and qualified patient's written physician recommendation and the designation of a primary caregiver by a qualified patient.

e. A written accounting of all cash and in-kind contributions, reimbursements, and reasonable compensation provided by the management members and members to the dispensary, and all expenditures and costs incurred by the dispensary.

f. A copy of the dispensary's commercial general liability insurance policy and all other insurance policies related to the operation of the dispensary.

g. A copy of the dispensary's most recent year's financial statement and tax return.

h. An inventory record documenting the dates and amounts of medical marijuana received at the dispensary, the daily amounts of medical marijuana stored on the dispensary property, and the daily amounts distributed to members.

i. Proof of a valid and current dispensary permit issued by the city in accordance with this chapter. Every dispensary shall display at all times during business hours the dispensary permit issued pursuant to the provisions of this chapter in a conspicuous place so that it may be readily seen by all persons entering the dispensary.

2. These records shall be maintained by the dispensary in printed format for a period of not less than three years and shall be produced to the city within twenty-four hours after receipt of the city's request.

3. Any loss, damage or destruction of these records shall be reported to the city manager within 24 hours of the loss, damage or destruction.

K. Site Management. The dispensary shall prevent and eliminate conditions in the dispensary area that constitute a nuisance.

L. Trash, Litter, Graffiti.

1. The dispensary shall maintain the sidewalks within 20 feet of the dispensary property as well as any parking lots under the control of the dispensary, free of litter, debris, and trash.

2. Notwithstanding any provisions of this code to the contrary, the dispensary shall remove all graffiti from the dispensary property and parking lots under the control of the dispensary within 72 hours of its application.

M. Alcoholic Beverages.

No dispensary or management member shall cause or permit the sale, distribution, or consumption of alcoholic beverages on the dispensary property; hold or maintain a license from the State Division of Alcoholic Beverage Control for the sale of alcoholic beverages; or operate a business on or adjacent to the dispensary property that sells alcoholic beverages. No alcoholic beverages shall be allowed or stored on the dispensary property.

N. Indemnification.

Every permit issued under this chapter shall contain a condition requiring the dispensary, through its management members, to execute an agreement in a form approved by the city attorney whereby the dispensary (1) releases the city, and its agents, officers, elected officials, and employees from any injuries, damages, or

liabilities of any kind that result from any arrest or prosecution of the dispensary or its management members, employees, or members for violation of state or federal laws, and (2) defends, indemnifies and holds harmless the city and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by adjacent or nearby property owners or other third parties due to the operations at the dispensary, and for any claims brought by any of their clients for problems, injuries, damages, or liabilities of any kind that may arise out of the distribution of medical marijuana provided at the dispensary.

5.150.140 Inspection authority.

A. City officials may enter and inspect the dispensary property at any time between the hours of 7:00 a.m. and 9:00 p.m. on any day of the week or at any reasonable time to ensure compliance and enforcement of the provisions of this chapter.

B. City officials may inspect and demand copies of records maintained by the dispensary, except for private medical records that shall be made available to law enforcement agencies only pursuant to a properly executed search warrant, subpoena, or court order.

C. No person shall refuse, impede, obstruct, or interfere with an inspection pursuant to this chapter.

5.150.150 Term of Permits and Renewals

A. Unless revoked on an earlier date, all dispensary permits shall expire one year after the date of issuance.

B. A dispensary permit may be renewed for additional periods of one year by filing an application for renewal with the city manager's office. Applications shall be on forms provided by the city and shall be accompanied by the annual dispensary permit program fee, in the amount established by resolution of the city council. The application for renewal and the fee shall be filed at least 30 days, but not more than 60 days, prior to the expiration of the permit. If a timely renewal application is filed, the dispensary permit's expiration shall be stayed until the date that notification is provided by the city manager pursuant to subsection G of this section.

C. Applications for renewal filed less than 30 days prior to the expiration of the dispensary permit shall not stay the expiration date of the permit and may be rejected or denied.

D. The City Manager shall either approve or deny the renewal of a dispensary permit within 90 days from the date the application for renewal is filed.

E. Applications for renewal shall be acted on using the criteria for review in section 5.150.080 of this chapter. The city manager may add, remove, or modify permit

conditions as a condition of permit renewal.

F. If the city manager denies the application for renewal of a dispensary permit, written notice of denial shall be served on the applicant. The notice shall contain:

1. A brief statement of the grounds for the denial.
2. A statement that the dispensary may appeal the denial in accordance with Section 5.150.170.
3. A statement that the failure to appeal the denial will constitute a waiver of all rights to an appeal hearing, and the denial will be final.

G. The denial of a renewal shall cause the dispensary permit to expire and the dispensary shall cease operations within 15 days from the date notice of denial is served. Continued operations shall be unlawful and subject to the penalties in Section 5.150.220.

H. If the city manager approves the application for renewal with new or modified conditions the dispensary shall have ten days from the date the notice of renewal is served on the dispensary to file an appeal of the proposed conditions in accordance with Section 5.150.170. Failure to properly file a written appeal of the proposed conditions within ten days of the date of service of the notice of renewal shall constitute a waiver of all rights to an appeal hearing, and the proposed conditions shall be deemed permanent conditions of the permit. Failure to properly and timely appeal the notice of renewal with the proposed conditions shall also constitute a failure to exhaust administrative remedies and a bar to any judicial action pertaining to the city manager's decision.

5.150.160 Suspension and revocation.

A. In addition to any other remedy authorized by law, a dispensary permit may be suspended, modified or revoked.

B. If the city manager proposes to suspend, modify, or revoke a permit, written notice of the proposed suspension, modification or revocation shall be served on the dispensary at least 15 days prior to the date of the proposed suspension, modification or revocation. The notice shall contain:

1. A brief statement of the grounds for such suspension, modification, or revocation.
2. A statement that the dispensary may appeal the denial in accordance with Section 5.150.170.
3. A statement that the failure to appeal the notice of suspension, modification or revocation will constitute a waiver of all rights to an appeal hearing, and the suspension, modification, or revocation will be final.

C. Notwithstanding subsection B above, if any dispensary, management member, or employee of a dispensary is convicted of a felony or is convicted of a misdemeanor for misconduct that is substantially related to the qualifications, functions, or duties of a dispensary, the city manager may immediately revoke the dispensary permit without prior notice. A dispensary may appeal the revocation in accordance with Section 5.150.170. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

D. Notwithstanding subdivision B above, if any dispensary or person holding a current dispensary permit or acting under the authority of the permit pursuant to this chapter ceases the operation of a dispensary for 90 consecutive days or longer, the city manager may immediately revoke the dispensary permit without prior notice. A dispensary may appeal the revocation in accordance with Section 5.150.170.

5.150.170 Denial, suspension, revocation, and non-renewal – appeals.

A. Except as otherwise provided in this chapter, any applicant or dispensary aggrieved by the decision of the city manager in conditioning, denying, suspending, revoking, or not renewing a dispensary permit, may appeal the decision by filing a written appeal, accompanied by a non-refundable appeal fee, with the city manager's office within ten days from the date of service of the notice from the city manager. The written appeal shall contain:

1. A brief statement in ordinary and concise language of the specific action protested, together with any material facts claimed to support the contentions of the appellant.
2. A brief statement in ordinary and concise language of the relief sought, and the reasons why it is claimed the protested action should be reversed or otherwise set aside.
3. The verification (by declaration under penalty of perjury) of the applicant or dispensary as to the truth of the matters stated in the appeal.

B. The appeal hearing shall be conducted by a hearing examiner appointed pursuant to Section 8.04.070 of this code.

C. Upon receipt of any appeal filed pursuant to this section, the city manager shall transmit the appeal to the secretary of the hearing examiner who shall calendar it for hearing as follows:

1. If the appeal is received by the city manager no later than fifteen days prior to the next regular appeal hearing, it shall be calendared for hearing at said meeting.
2. If the appeal is received by the city manager on a date less than fifteen days prior to the next appeal hearing, it shall be calendared for the next subsequent appeal hearing.

D. Written notice of the time and place of the hearing shall be provided at least ten calendar days prior to the date of the hearing to each appellant by the secretary of the hearing examiner either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy addressed to the appellant at the address shown on the appeal.

E. Failure of any person to file a timely appeal in accordance with the provisions of this section shall constitute an irrevocable waiver of the right to an administrative hearing and the city manager's decision shall be final.

F. Only those matters or issues specifically raised by the appellant in the appeal notice shall be considered in the hearing of the appeal.

G. Any condition, denial, suspension, revocation, or non-renewal of a dispensary permit shall be stayed during the pendency of an appeal which is properly and timely filed pursuant to this section.

5.150.180 Appeal hearings.

A. At the time set for hearing, the hearing examiner shall proceed to hear the testimony of the city manager, the appellant, and other competent persons, including members of the public, respecting those matters or issues specifically listed by the appellant in the notice of appeal.

B. The proceedings at the hearing shall be electronically recorded. Either party may provide a certified shorthand reporter to maintain a record of the proceedings at the party's own expense.

C. The hearing examiner may, upon request of the appellant or upon request of the city manager, grant continuances from time to time for good cause shown, or upon his or her own motion.

D. In any proceedings under this chapter, the hearing examiner has the power to administer oaths and affirmations and to certify to official acts.

5.150.190 Conduct of hearing.

A. Hearings need not be conducted according to the technical rules relating to evidence and witnesses. Government Code section 11513, subdivision (a), (b) and (c) shall apply to hearings under this chapter.

B. Oral evidence shall be taken only upon oath or affirmation.

C. Irrelevant and unduly repetitious evidence shall be excluded.

D. Each party shall have these rights, among others:

1. To call and examine witnesses on any matter relevant to the issues of the

hearing.

2. To introduce documentary and physical evidence.
3. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing.
4. To impeach any witness regardless of which party first called the witness to testify.
5. To rebut the evidence presented against the party.
6. To represent himself, herself, or itself or to be represented by anyone of his, her, or its choice who is lawfully permitted to do so.

E. In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact that may be judicially noticed by the courts of this state or that may appear in any of the official records of the city or any of its departments.

5.150.200 Form and contents of decision.

A. If it is shown, by a preponderance of the evidence, that one or more grounds exist to condition, deny, suspend, revoke, or not renew a dispensary permit, the hearing examiner shall affirm the city manager's decision. The decision of the hearing examiner shall be in writing and shall contain findings of fact and a determination of the issues presented.

B. The decision shall inform the appellant that the decision is a final decision and that the time for judicial review is governed by California Code of Civil Procedure Section 1094.6. Copies of the decision shall be delivered to the parties personally or sent by certified mail to the address shown on the appeal. The decision shall be final when signed by the hearing examiner and served as provided in this section.

5.150.210 Relocation or permit transfer prohibited.

A. A dispensary shall not relocate or operate a dispensary at any place other than the address of the dispensary property or the physical location for which the original dispensary permit was granted.

B. A dispensary shall not transfer ownership or management control of a dispensary or transfer a dispensary permit to another person.

C. A dispensary permit is not property and shall have no value. Any attempt to transfer a dispensary permit or relocate a dispensary, directly or indirectly in violation of the provisions of this chapter shall be unlawful and void, and shall automatically revoke

the permit.

5.150.220 Violations.

- A. In addition to any other remedy allowed by law, any person who violates a provision of this chapter is subject to criminal sanctions, civil actions, and administrative penalties pursuant to chapter 1.28.
- B. Violations of this chapter are hereby declared to be public nuisances.
- C. Any person who violates a provision of this chapter is liable for civil penalties of not less than two hundred fifty dollars (\$250.00) or more than twenty-five thousand dollars (\$25,000.00) for each day the violation continues.
- D. In addition to criminal sanctions, civil penalties as provided in this section, and other remedies set forth in this code, administrative penalties may be imposed pursuant to chapter 1.28 against any person violating any provision of this chapter. Imposition, enforcement, collection and administrative review of administrative penalties imposed shall be conducted pursuant to chapter 1.28.

5.150.230 Remedies cumulative.

All remedies prescribed under this chapter shall be cumulative and the election of one or more remedies shall not bar the city from the pursuit of any other remedy for the purpose of enforcing the provisions hereof.

5.150.240 Severability.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, that decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

SECTION 2. Operative Date.

This ordinance shall take effect 60 days after adoption.

SECTION 3. Repeal of Ordinances Nos. 2009-033 and 2009-041.

Ordinance No. 2009 -033 and Ordinance No. 2009-041 are repealed on the effective date of this ordinance.

RESOLUTION NO.

Adopted by the Sacramento City Council

Date: November 9, 2010

A RESOLUTION AMENDING REVENUE SERVICES FEES & CHARGES TO ESTABLISH FEES APPLICATION AND PROGRAM FEES TO IMPLEMENT, MONITOR, AND ENFORCE MEDICAL MARIJUANA DISPENSARIES UNDER SACRAMENTO CITY CODE SECTION 5.150

BACKGROUND

- A. The Mayor and City Council has adopted Section 5.150.090 of the Sacramento City Code, requiring any medical marijuana business owner to obtain a permit to operate a medical marijuana dispensary. This permit is in addition to a Title 17 Special Permit which allows medical marijuana dispensaries to locate in certain areas.
- B. Implementation and enforcement of the adopted of the medical marijuana dispensary ordinance requires additional field and administrative staff for the Code Compliance and Revenue Divisions; and
- C. Fees will be used to fully offset the costs to administer and enforce the medical marijuana dispensary program.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1 The City of Sacramento Fee and Charge Report is amended to include the fees as set forth in Exhibit A of the resolution.

Section 2 Based on the information presented to it and upon information in the public record, and in compliance with the Public Resources Code Section 21080(b)(8), the City Council finds:

- a) The fees are for the purpose of meeting operating expenses including employee wage rates and fringe benefits

Table of Contents:

Exhibit A – Fees Relating to Regulating Medical Marijuana Dispensaries

EXHIBIT A

MEDICAL MARIJUANA PERMITTING FEES

Fee Name: Dispensary Permit Application

Current Fee: \$0

Proposed Fee: \$5,000.00

Justification: Recover costs associated with processing high level review (phase 1) application for a medical marijuana dispensary.

Fee Name: Dispensary Permit Program

Current Fee: \$0

Proposed Fee: \$12,600.00

Justification: Recover costs associated with regulating medicinal marijuana dispensaries. The program cost include resources to: monitor State, Federal and other jurisdictions laws regarding medical marijuana dispensaries; process detailed dispensary permit program applications; provide proactive compliance enforcement of city code.

Fee Name: Dispensary Permit Program Appeal

Current Fee: \$0

Proposed Fee: \$400.00

Justification: Recover costs associated with the appeal process medicinal marijuana dispensaries.

RESOLUTION NO.

Adopted by the Sacramento City Council

Date: November 9, 2010

AMENDING THE FISCAL YEAR 2010/11 OPERATING BUDGET TO ADD 1.0 FTE PROGRAM ANALYST IN THE FINANCE DEPARTMENT, 1.0 FTE ZONING INVESTIGATOR, 1.0 FTE CUSTOMER SERVICE REPRESENTATIVE IN THE COMMUNITY DEVELOPMENT DEPARTMENT AND TO ADJUST LINE ITEM BUDGETS FOR REVENUE AND EXPENDITURES

BACKGROUND

- A. The Mayor and City Council has adopted Chapter 5.150 of the Sacramento City Code, requiring any medical marijuana business owner to obtain a permit to operate a medical marijuana dispensary and to pay certain related fees. This permit is in addition to a Title 17 Special Permit which allows medical marijuana dispensaries to locate in certain areas.
- B. Implementation and enforcement of the adopted medical marijuana dispensary ordinance requires additional field and administrative staff for the Code Compliance and Revenue Divisions; and
- C. Fees collected in the administration of this program will be used to fully offset the costs to administer and enforce the medical marijuana dispensary program.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

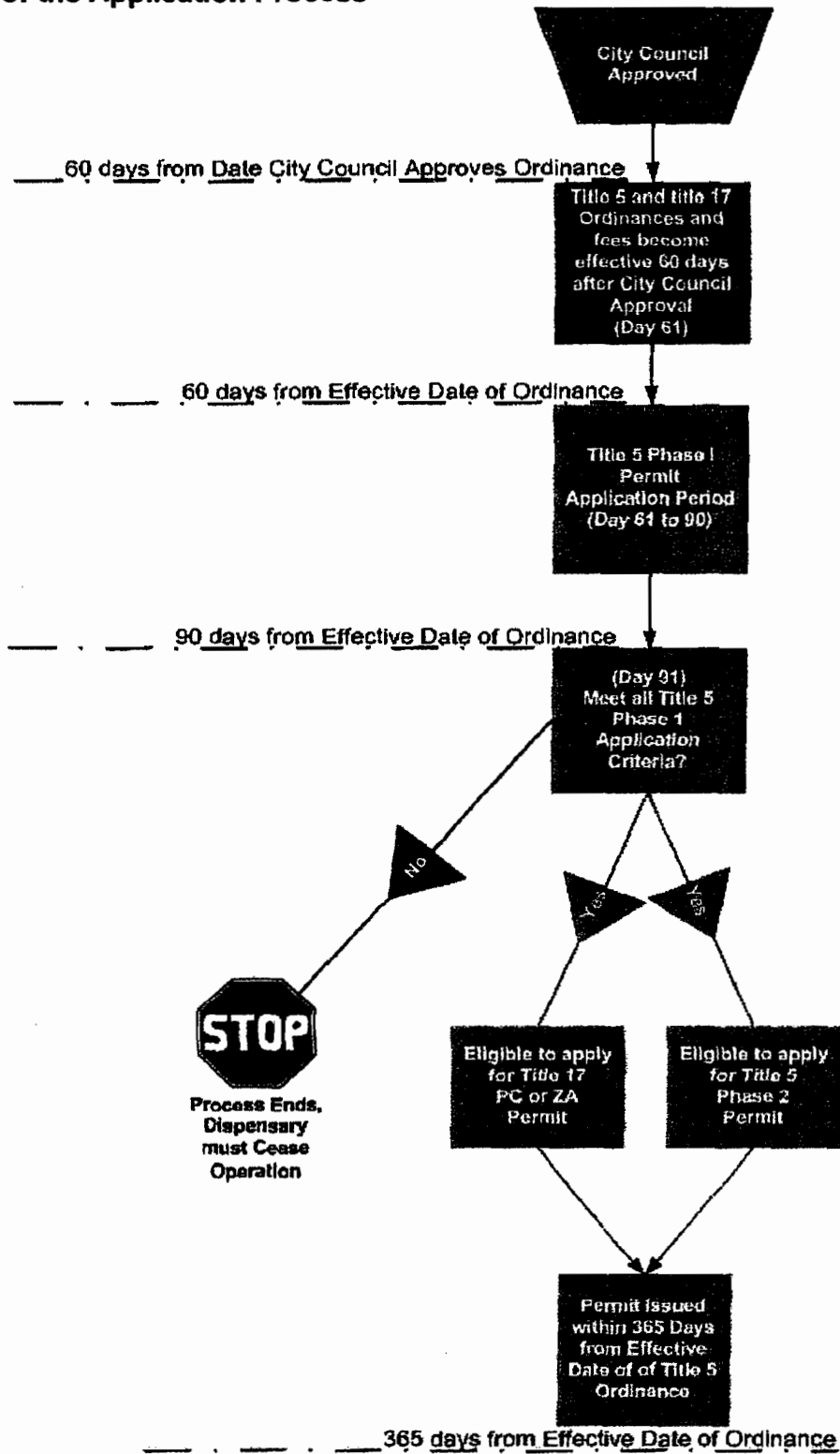
Section 1 The medical marijuana permit program shall be implemented in a manner that is cost neutral to the City of Sacramento.

Section 2 The FY2010/11 Operating Budget is amended to:

- (a) Add 1.0 FTE Program Analyst in Dept ID 06001231 in the Finance Department and
- (b) Add 1.0 FTE Zoning Investigator in Dept ID 21001314 in the Community Development Department.
- (c) Add 1.0 FTE Customer Service Representative in Dept ID 21001011 in the Community Development Department.
- (d) Increase Finance Department 06001231 permit revenue 3xxxxx by \$66,000 and increase expenditures 4xxxxx by \$66,000.
- (e) Increase Community Development Department 21001314 permit revenue

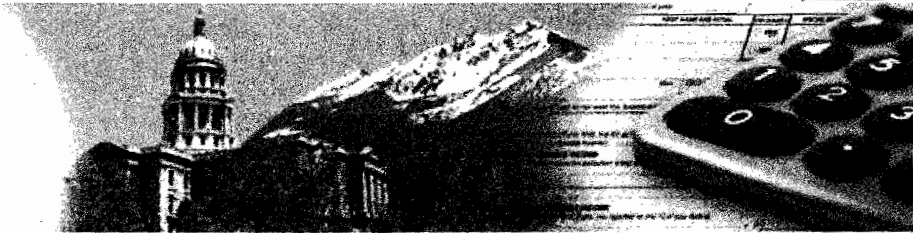
3xxxxx by \$145,000 and increase expenditures 4xxxxx by \$145,000.

Overview of the Application Process



Department of Revenue

Division of Taxation



[Individual Income Tax](#) [Sales Tax](#) [Other Taxes](#) [PTC](#) [Tax Professionals](#) [Forms](#) [Tax Library](#) [Contact Us](#)

Home > [Tax Library](#) > [News and Announcements](#) > [News and Announcements - 2011 and Prior](#) > [Medical Marijuana](#)

[Tax Library](#)

Medical Marijuana

[FYI Publications](#)

[Common Questions](#)

The Colorado Attorney General has recently ruled that sales tax must be collected by the vendor on sales of medical marijuana dispensed in accordance with Article XVIII, Section 14 of the Colorado Constitution.

[Tax Information Index](#)

[Rules and Regulations](#)

The law requires that all businesses selling medical marijuana be licensed through the Colorado Department of Revenue and collect and remit sales tax to the department on all taxable sales. If a business fails to collect sales tax from customers, they will be liable to pay the tax that should have been collected.

[Statutes](#)

[Tax Update Newsletter](#)

[Tax Conferee](#)

Any businesses selling medical marijuana that does not have a Colorado sales tax license should immediately file and submit the [CR 0100, Colorado Business Registration Form](#), to set up a sales tax account and receive a license. Please note there is a fee and a sales tax deposit required with the license application. See the CR 0100 form for details. This form can be taken to any [Taxpayer Service Division service center](#) where the account could be set up immediately and a temporary license issued. The department will mail the final paper license in 4 to 6 weeks.

[News and Announcements](#)

[No Tax Rate Changes for July 1, 2013](#)

[Taxpayers Affected by Natural Disasters](#)

After the sales tax account is set up, the business should begin collecting sales tax. Tax rates can be found in the publication [DR 1002, Colorado Sales Tax Rates](#) or by using our [Local Tax Rates System](#). Additional forms and information is available on our Web site under [Sales Tax](#).

[Possible Delay at Service Centers](#)

[Alert: Possible Telephone Scam](#)

Please maintain timely filings to avoid penalty and interest charges. To report other dispensaries that are not currently collecting tax a secure e-mail can be sent through our Web site under [Contact Us](#). All matters are kept confidential.

[Avoid Errors and Get Your Refund Faster](#)

[January 1, 2013 Sales Tax Rate Changes](#)

The formal Attorney General Opinion is [available online](#).

[Hurricane Sandy -- Disaster Relief for Taxpayers](#)

[Information for Taxpayers Affected by Wildfires](#)

[July 1, 2012 Sales Tax Rate Changes](#)

[Taxpayers Must Pay Balance Due on 2011 Taxes](#)

[Send Us a Message through Revenue Online](#)

[2012 Business Tax Symposium -- Register Now](#)

[Football Stadium District Sales Tax Expires Dec. 31](#)

Douglas E. Smith, M.D.



Physician Evaluations
Alternative Medicine
Psychiatry

PC 8/22/13
#9.a

Book, in its entirety,
provided by Aneka
Rodriguez at
hearing

Medical Marijuana

101

by Mickey Martin
with Ed Rosenthal and Gregory T. Carter, M.D.