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Mr. William M. Rubenstein
Commissioner
State of Connecticut
Department of Consumer Protection
State Office Building, Room 103
165 Capitol Avenue
Hartford, CT 06106



**Re: Suggested Modifications to State of Connecticut Regulations 21a-408-1 through 21a-408-70**

Dear Commissioner Rubenstein:

Pursuant to the Department of Consumer Protection's (the "Department") March 19, 2013 Notice of Intent to Adopt Regulations, this correspondence is intended to provide additional data, views and positions relative to the Department's adoption of its regulations concerning the palliative use of marijuana set forth in Sections 21a-408-1 through Sections 21a-408-70 (the "Regulations").

This correspondence is being delivered to you as an original, along with ten copies as required by your Department.

Below is a list of thoughts, comments and suggestions for the Department to consider prior to issuing its final Regulations.

1. **Section 21a-408-20(c)(7) and 21a-408-52(e).** The Regulations specifically provide for the establishment of a $2,000,000 escrow account which is to be maintained in a financial institution in Connecticut. The requirement to use a financial institution as the depository of such funds appears to be problematic for producers. In conversations with financial institutions, it is apparent that such financial institutions would regard the creation and maintenance of an account on behalf of a producer under the Regulations as a "knowing facilitation of activities which are in violation of federal law." The financial institutions queried are concerned that their simple actions in holding such funds could result in prosecution of these banks and the confiscation of the deposited proceeds and, potentially, other assets of the financial institution in the event federal prosecutors determine federal criminal laws are violated. As a

result, these institutions have no interest in holding such escrowed funds. Producers who are willing to escrow the $2,000,000 are concerned that there is a likelihood that they will be unable to comply with this regulatory requirement. Our recommendation is that some other mechanism be considered, including having the State of Connecticut hold such funds in its accounts.

2. **Section 21a-408-15(b) and 21a-408-52(f)** specifically prohibit dispensary and production facilities from being located within 1,000 feet of a school, church, temple or other place used exclusively or primarily for religious worship, or a playground, park or child daycare facility. The 1,000 foot setback requirement effectively prohibits the siting of either type of facility in most municipalities in Connecticut. We believe that this restriction should be eliminated.

3. **Section 21a-408-1(43)** provides a definition for a "one month supply" of medical marijuana which is incomplete. This definition needs to be read in conjunction with **Section 21a-408-38(e)** which establishes that a dispensary shall not provide more than a one month supply of medical marijuana to a qualifying patient or primary caregiver certified to receive such supply. Neither of these Regulations provide guidance as to what methodology should be used to quantify that one month supply. A one month supply could be calculated as thirty days, a range of twenty-seven to thirty days or a calendar month. Additionally, the period of measurement chosen can date from the time an individual has been issued a card, can be calculated from the initial date of visit by that individual to a dispensary or it may even be measured for a standardized calendar month universally measured within the industry. Additional guidance should be added to the Regulations regarding the proper methodology for calculating a one month supply so that dispensaries can avoid violations. It is our view that the twenty-seven to thirty day period is realistic given federal prescription guidelines which allow for dispensing of sufficient supply to allow patients to bridge weekend periods.

4. **Section 21a-408-35(f) and 21a-408-53(f)** each establish a limitation on access to the dispensary and production facilities. The practical effect of this language is to prohibit repairmen, service providers and suppliers of material from the premises unless a waiver from the Department is obtained prior to entry. This requirement will create very practical issues regarding the scheduling of these services. We believe a better approach would be to allow a dispensary or production facility to provide prior written notice to the Department of intended scheduled services and to document those visits through a log book procedure. It is impractical for a business to obtain a waiver prior to obtaining services or supplies.

5. **Section 21a-408-53(c)(1) and (2)** specifically prohibit production employees from moving between compartments within a production facility. This prohibition is not practical given that most employees will be cross-trained and will be utilized in various

departments engaging in numerous activities throughout the production process. We believe some liberalization of this rule is necessary. Our suggestion is that production employees should be able to move throughout the production facility regardless of compartment or function and non-production employees could be prohibited from entry into the production area. Movement of employees within the production process needs to be unlimited.

6. **Section 21a-408-35(b) and 21a-408-55** specifically prohibit certain forms of product development and sales by excluding commonly provided products within the industry. We would suggest broadening the list of permitted products to include lozenges, chocolates and infused raw foods such as dates, goji berries, spirulina, nut mixes and granola. These foods can be used to enable patients with severe conditions and who have compromised digestive systems to ingest medical marijuana where such patients cannot tolerate baked, sweetened or gluten products. Additionally, we believe that the prohibition of alcohol should be eliminated to allow for the use of pharmaceutical grade grain alcohol to create alcohol-based tinctures for patients who cannot ingest foods or have no appetite and who desire to properly dose through a spray or sublingually. These limited uses of alcohol should be allowed.

7. **Section 21a-408-59** establishes certain criteria for the branding and naming of products which, while well-intentioned, will lead to more confusion among patients. The requirements for branding are not practical for an herbal remedy such as cannabis. This Section requires testing for THC, THCA, CBD, and CBDA percent by weight. While this type of testing can be informative and beneficial to the patient, the re-branding requirement for differences in testing percentages will cause confusion with the patients, delays in getting product to market, added administrative work-load, and potentially exorbitant costs to the producer. Example: Assume for moment that a phenotype of a strain named Durban Poison, a pure African Sativa, is made available. Patients who may come to use this particular phenotype to treat their migraine headaches will seek out this product. The current test results indicate THC=1.78%, THCA=16.85%, CBD=0.01%, and CBDA=1.38%. Due to the fact that Cannabis is a plant, it would be difficult to replicate these test results within a 3% differential, even across different areas of the same plant. If the THCA changed from 16.85% to 16.26% and all other test results stayed the same, the strain would have to be renamed. Statistically, under this Regulation, a strain might only meet the same brand name requirement from 1% to 10% of the time. The requirement to change the brand name so often will lead to confusion among the patients, and may cause patients to miss an opportunity to use a strain that has proven helpful to them in the past. We, therefore, suggest keeping all testing requirements, but branding requirements should be eliminated or the 3% differential should be increased to 10% - 20%.

8. **Section 21a-408-35(d)** prohibits the consumption of food or beverages by qualifying patients and primary caregivers on the premises of a dispensary facility. We believe the provision of coffee, tea or other beverages should be allowed while patients and caregivers are buying product and consulting with the dispensary.

9. **Section 21a-408-52(7)** appears to prohibit any special pricing methodology and coordination of pricing between production facilities and dispensaries. Certain qualified patients may not be in a position to acquire medical marijuana for their use based on the market cost of the product. It has, therefore, been suggested that the discounting of prices for income qualified individuals should be allowed and that this can be better accomplished through a cooperative pricing methodology between the production facilities and the dispensary facilities. We request the liberalization of these pricing requirements to allow for this beneficial public interest.

10. **Section 21a-408-35(e)** prohibits the handling of unsealed and unpackaged marijuana products. It is commonplace within the industry for patients to want to better understand the products, strains, aromas, etc. of the natural plants and buds prior to purchase. We suggest that in order to accomplish this objective, the Regulations should allow for the containment of plants and buds in labeled jars accessible to patients in order for the patients to become better educated as to the types of products available.

The following are additional concepts that we believe are beneficial to this developing industry. Unfortunately, there are no regulations that address these issues and, therefore, no guidance is available to dispensaries that might be interested in providing a comprehensive professional service to the qualified patients. We, therefore, suggest the following:

(a) The Regulations should be broadened to allow dispensaries to provide other licensed services such as counseling and health-related services which would permit a more comprehensive system of delivery of services.

(b) Although the Regulations require medical marijuana to be sealed in pre-packaged packages, there is no mention of package weight standards. It would be beneficial to the industry if certain recognized weight requirements were established to provide some standardization of delivery and pricing of product within the industry. This will also enable patients to better understand price differences among the dispensaries.

(c) Some guidance by the Department as to what standards should be employed to meet HIPPA requirements would be beneficial. For example, should confidential discussions between patients and dispensaries occur in privacy booths or other areas where these confidential conversations could take place?

It is our hope that the information provided herein will be considered by the Department in any redrafts or modifications of its Regulations.

Thank you for your time and consideration of the above materials.

Very truly yours,

Andrew C. Glassman

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