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Submitted by:
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Interested Party Statement on Proposed Regulations Concerning the Palliative Use of Marijuana

The Drug Policy Alliance (DPA) is the nation's leading organization working to promote alternatives to punitive drug laws. We advocate for new drug policies that are grounded in science, compassion, health and human rights. DPA has assisted in the drafting, passage, and implementation of medical marijuana legislation in a number of states around the country. From that experience, DPA offers the below comments on the proposed regulations in order to ensure that the program is implemented in a way that is workable and that will allow patients access to a sufficient and adequate supply of medication.

Sec. 21a-408-19. Number of Producers

Section 21a-408i of the statute concerning the palliative use of marijuana allows the department to license between three and ten producers. This proposed regulation states that the department may initially license at least three producers—the minimum amount allowed by the statute.

Three licensed producers are unlikely to meet the needs of patients across the state. Unlike many other medical marijuana states where patients and caregivers can grow their own marijuana under state law, in Connecticut all the marijuana obtained by all the patients must come from the licensed producers.

There are a number of issues that may compound the licensed producers' ability to meet the patient demand. First, the producers may wish to remain small in order to avoid upsetting federal officials who are more focused on large scale operations than small ones and to avoid triggering federal mandatory minimum sentences. And second, cultivating marijuana is not an exact science—it takes time, is unpredictable, and can fail. If one of the producers fails, it will wipe out a significant portion of the product in the state.

New Mexico, which has a much larger number of licensed producers and allows patients and caregivers to cultivate their own marijuana, has continually struggled over the years to provide a sufficient amount of marijuana to meet patients' needs.

Sec. 21a-408-20. Producer Selection

Section 21a-408i(b)(G) gives the department discretion to require each licensed producer to maintain an escrow account in a financial institution in Connecticut in an amount of two million dollars. This proposed regulation requires each licensed producer to maintain such an account, or a line of credit from a financial institution in Connecticut, and to forfeit the two million dollars to the state if the producer fails to complete construction on a production facility or to maintain an uninterrupted supply of marijuana to its customers during the term of the license.

The purpose of the provision in the statute is to allow the department to establish regulations that ensure that producers who are awarded licenses have sufficient resources to operate their production facilities.

Two million dollars is an unreasonably large amount and requiring that it be forfeited is a severe penalty, and unnecessary to provide assurance to the department that licensed producers have the necessary resources to operate. There are factors that could cause a producer acting in good faith who has taken all necessary

precautions to be unable to provide an uninterrupted supply to consumers, such as crop failure or disease. Otherwise qualified and responsible applicants may be unable to take such a risk.

Additionally, most US banks refuse to do business or accept funds from medical marijuana businesses. Requiring that producers have an account or a line of credit with a US bank makes it likely that no producer will qualify for a license under this regulation.

The department should instead promulgate regulations that seek reasonable assurance that applicants for producers licenses are financially able to operate rather than establishing overly harsh and impossible requirements for applicants to meet.

Sec. 21a-408-28. Fees

Section 21a-408i(b)(C) requires that the department establish a nonrefundable application fee for producers not less than twenty-five thousand dollars. Section 21(a)-408i(b)(D) requires the department to establish license renewal fees for producers "not less than the amount necessary to cover the direct and indirect cost of licensing and regulating producers . . . ." This regulation establishes that an annual renewal fee for a producer license shall be seventy-five thousand dollars for each location where the producer operates.

This application and licensing fees scheme is far greater than that of any other medical marijuana state in the US and is far too large for most entities operating in the medical marijuana industries in any other state to pay. This exorbitant cost will be passed onto patients who will already be paying for their medicine out of pocket. Additionally, these huge fees completely foreclose the possibility of any small producers obtaining licenses.

The patients and the state would be better served by the department licensing a larger number of producers who are each required to pay a smaller fee, but who would bring diversity in size, product, and location to the market, rather than only three huge producers who may never get their businesses off the ground because the severe financial restrictions and penalties put in place by the regulations.

For these reasons, DPA suggests revisions to the regulations mentioned above.

Respectfully submitted,

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