February 22, 2021

The Honorable Secretary Alison Beam
Acting Secretary of Health
Chair, Pennsylvania Medical Marijuana Advisory Board
Pennsylvania Department of Health
625 Forster Street
8th Floor West
Harrisburg, PA 17120

RE: WRITTEN COMMENTS MEETING PATIENT NEEDS THROUGH MEDICAL MARIJUANA SUPPLY

Dear Secretary Beam:

We write to acknowledge and thank the Pennsylvania Department of Health and the Medical Marijuana Advisory Board for the outstanding leadership provided to meet patient needs in months leading up to this meeting.

Today, we are providing written comments pursuant to Medical Marijuana Advisory Board's duties established under section 1201 of the Medical Marijuana Act (35 P.S. § 10231.1201).

There are issues that have been identified within the medical marijuana industry as it relates to concerns raised regarding patient supply in which we would like to raise with the Board: I. The ongoing need to decontaminate or remediate flower in Pennsylvania's medical marijauna program, II. The difficulty of obtaining approval to release products that have passed secondary testing under the program regulations, III. The expansion of the program's pesticide list. IV. The need for additional public reporting of program data and V. The need to reopen the Application Program Interface ("API") in the program.

I. Medical Marijuana Product Remediation Challenges Leading to Patient Supply Issues

The first issue identified surrounds the remediation of products. From an operator perspective, the inability to decontaminate products is one of the largest issues facing the program. It would also be the simplest to solve and implement as no additional requirements or changes would be needed other than Departmental approval. While we cannot know the number for certain, there may be upwards of one thousand pounds of usable medical marijuana held by operators with no

pathway to release. This represents millions of dollars of products that could be made into RSO or other products that currently have no pathway to market without remediation. In other states, this would not be an issue because the decontamination of product is widely accepted.

Under Act 16, Pennsylvania's Medical Marijuana Advisory Board has been tasked with the duty, "To examine and analyze the law and events in other states and the nation with respect to medical marijuana." We respectfully ask that the board consider remediation and examine state laws and regulations that permit remediation. Programs such as Maryland, Ohio, Oregon, Washington, Michigan, California, Oklahoma, among others have all adopted the ability to remediate products.

Neighboring states Ohio and Maryland permit remediation through extraction, a process that Pennsylvania operators currently use to make products. This would provide a safe and non-toxic way to protect consumers and ensure a safe, reliable, pure end-product. If yields test above contamination levels, a similar policy would be an effective way to work with the product, remove contaminants, retest, and get safe medicine to market. This serves as the public health and safety safeguard.

In Pennsylvania, the process of remediation could be as simple as allowing flower to be processed into oil and the product then retested to demonstrate contaminants have been removed.

We strongly urge that the Pennsylvania Marijuana Advisory Board review and help facilitate consideration of a similar policy.

II. Medical Marijuana Product Release Difficulties

The issue of release for products that have failed initial testing but passed subsequent testing under the regulation is impacting the supply of medical marijuana to patients and continues since the board has last met. Under current regulation Pa. Code § 1171.31, if a sample fails any testing requirements, the following will apply to the sample: "(1) The approved laboratory that performed the initial test may re-test the sample upon a request from the grower/processor in accordance with subsection (d). (2) If the sample passes the re-test, another approved laboratory shall sample the same harvest batch, harvest lot or process lot to confirm the passing test result. (3) If the Department does not agree to accept the results from the approved laboratory, the sample shall be disposed of by the approved laboratory under § 1151.40 (relating to management and disposal of medical marijuana waste)."

Operators currently have products that have failed initial testing and passed a retest under the regulation. However, these products have not been approved for release for processing or sale. This has created another large backlog of products that could be released to market.

We respectfully request that the Pennsylvania Medical Marijuana Board examine this ongoing issue.

III. Review and Expansion of the Approved Pesticide List

Act 16 is now several years old and there have been many innovations in how the industry cares for plants. Additionally, there is a much larger understanding of pesticide usage for marijuana. However, there have been no additions to the allowable pesticide list and this is causing significant operational challenges.

While utilizing safe pesticides can help prevent contaminants in the product, Pennsylvania's medical marijuana companies are faced with a pesticide list that is years old, and extremely limited. This has posed unique challenges for operators in the Pennsylvania program as they aim to meet the supply needs of patients.

We believe that continuing consultation with Pennsylvania's Department of Agriculture and accepting recommendations to expand the pesticide list. We ask that the Pennsylvania Medical Marijuana Board examine this issue and help address this concern.

IV. Increased Reporting of Program Data

Each quarter the MMAB releases very basic program information – number of patients, caregivers and practitioners, the top three-conditions of patients in the program and gross sales from Growers/Processors to Dispensaries and from Dispensaries to Patients. While this information tells the success story of the Pennsylvania Medical Marijuana Program, additional information would allow Medical Marijuana Operators (MMOs) to better match supply with patient demand.

The following deanomotized information would be permissible for release and the Department would have at hand:

- The number of enrolled patients by condition
- Age demographics
- Medication and strain sales
- Product types and average purchase amount
- More detailed patient counts such as by county or zip code
- Frequency of purchasing and numbers of patients making maximum allowed purchases

Non-identifying demographic information and informational reporting would play a key role in public health outcomes. For example, being able to study the correlations between medical marijuana patients seeking treatment for opioid use disorder or other named conditions, would not only demonstrate the success of the program but would help evaluate the effectiveness of our public health initiatives.

Additionally, the frequency and availability of information should be increased.
With program growth of 2% a week during 2020 quarterly statistics are often dated by the time they are reported at the MMAB quarterly meeting. Act 16 does not indicate a frequency of reporting but it would be useful if data was distributed at a rate more commiserate to the growth

of the program. Connecticut provides basic statistics on a weekly basis[1] as do Minnesota [2] and Massachusetts. Florida supplies a patient count report frequently. The number of new patients by month would also allow for MMOs to plan to have the appropriate amount of medicine to match the number of patients and to have the staff to serve those patients. With an increased frequency of information MMOs will also be able to make real time decisions about increasing cultivation capacity allowing supply to better keep up with demand.

V. Examination of Reopening the Application Program Interface ("API")

While the medical marijuana program has grown to meet patient demands, the seed-to-sale closed Application Program Interface (API) issue remains. At the start of the Pennsylvania program, API was "opened" allowing for software used to run businesses to communicate with the state software seamlessly. The software API has since been closed. According to Metrc, the leading government supplier of seed-to-sale software, the use of open API technology is utilized in at least fifteen states with medical programs: Alaska, California, Colorado, Louisiana, Maine, Maryland, Massachusetts, Michigan, Missouri, Montana, Nevada, Ohio, Oklahoma, Oregon, West Virginia, and District of Columbia. We believe by examining the use of open API to allow non-identifying product and inventory information in the following states would be beneficial to patient access in the Commonwealth.

Thank you in advance for your consideration regarding the concerns raised. We appreciate the opportunity to work with you as we seek answers to these issues and fight to improve access, affordability, and supply for patients.

Sincerely,

Michael Bronstein
President
American Trade Association for Cannabis and Hemp

Meredith V. Buettner

Meredith Buettner
Executive Director
Pennsylvania Cannabis Coalition

[1] https://portal.ct.gov/DCP/Medical-Marijuana-Program/Medical-Marijuana-Statistics
[2] https://www.health.state.mn.us/people/cannabis/about/medicalcannabisstats.html