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May 24, 2017

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The Honorable Edmond G. Brown Jr.
Governor of California
State Capitol, Suite 1173
Sacramento, CA 95814

Re: Recommendations regarding the Cannabis Trailer Bill

Dear Governor Brown:

On behalf of the California Conference of Local Health Officers (CCLHO), I sincerely appreciate the opportunity to provide input on the cannabis trailer bill language (April 28, 2017 version) that seeks to merge the Medical Cannabis Regulation and Safety Act (MCRSA) and the Adult Use Marijuana Act (AUMA). CCLHO was established in statute in 1947 to advise the California Department of Health Services (now the California Department of Public Health), other departments, boards, and commissions, as well as officials of federal, state and local agencies, the Legislature and other organizations on all matters affecting health. CCLHO membership consists of all legally appointed physician health officers in California's 61 city and county jurisdictions. CCLHO held a meeting of local Health Officers from across the state to review and vote on recommendations regarding the cannabis trailer bill language.

With the recent legalization of adult-use cannabis and the continuing commercialization of medical cannabis, California is entering a new era which holds the potential for both benefit and harm. Cannabis already impacts communities throughout the state, and this will only increase in the coming years, with unknown net long term impacts. As such, it is incumbent on us, as policy makers, subject matter experts, and leaders to be deliberate and conscientious in designing the statutory framework in order to both protect health and to ensure the success of the policies enacted by the legislature and approved by the voters.

CCLHO believes that great attention should be given to protecting public health and minimizing negative health impacts. In the interest of protecting the health of our citizens and communities, we urge you to include the following five considerations in legislation:

1. **Conduct ongoing research and epidemiology and measure impacts.** Cannabis scholarship and research is scant, and changing cannabis policies mean California has an opportunity to lead in this area. There is particular urgency in understanding more about biologic effects; health, societal and cultural impacts; and changes in norms and behaviors over time. Funding and support for the creation of metrics and on-going measurement of cannabis impacts is critical so that we can accurately evaluate and adjust policy as needed to protect health.
2. **Ensure product safety.** This is a rapidly evolving industry creating new and innovative products that have not been widely tested or used. It is critical that policies are put in place to maximize product safety. Regulation is needed to ensure safe content of cannabis products and prevent product contamination by pesticides, solvents and other chemicals. Manufacturing should adhere to hygiene and sanitation standards. Edible products should be self-stable (non-potentially hazardous food products) and have clear, correct labels.

3. **Protect against overdose and accidental ingestion.** Products need to be immediately identifiable as cannabis products. Limits should be placed on the amount of active ingredients allowed per dose and per package. Product packaging and labeling should be designed to prevent accidental ingestion.
4. **Prevent youth use.** Available research shows that cannabis may negatively impact the developing brain in individuals up to age 25. This is an important detail: while adult-use may be legal for ages 21 and older that does not mean that chronic use in early adult life is not more risky than use above age 25. To prevent youth and young adult use, there is a need for funding comprehensive prevention programs, including ongoing outreach and education work. Strategies are needed to reduce the chance youth will use cannabis, such as policies to address product visibility, glamorization of product use, advertising targeting youth, and discounting of products to youth friendly price points. CCLHO recommends the enactment of policies to prevent the diversion of cannabis and cannabis products to youth who are restricted from accessing these products.
5. **Mitigate potential health system impacts.** Policies should be put in place to support and fund measures to mitigate health and health systems impacts, such as increasing access to substance use disorder treatment and employing DUI and other enforcements to prevent accidents and injuries.

We believe AUMA, MCRSA and the trailer bill provide a strong start to regulating this industry, and we applaud those who have worked diligently to build this framework. We have specific thoughts and recommendations regarding the trailer bill and upcoming regulations, as outlined in the enclosed attachment. For ease of navigation, our enclosed recommendations are divided into categories and our highest priorities appear in bold.

Thank you again for this opportunity to provide input on this important public health issue. If you have any questions, please feel free to contact me at Ken.Cutler@co.nevada.ca.us or by phone at 530-265-7154.

Sincerely and on behalf of the CCLHO membership,

Original signed by Dr. Ken Cutler

Ken Cutler, MD, MPH
President, California Conference of Local Health Officers

Enclosure

cc: Karen Smith, MD, MPH, Director and State Public Health Officer, California Department of Public Health
Lori Ajax, Chief, Bureau of Medical Cannabis Regulation
Amber Morris, Branch Chief, California Department of Food and Agriculture

The California Conference of Local Health Officers (CCLHO) has provided below our specific thoughts and recommendations regarding the Cannabis Trailer Bill and upcoming regulations. The CCLHO recommendations are divided into categories, with highest priorities highlighted in bold.

1. Single Regulatory Framework: CCLHO supports merging medical and adult-use cannabis under one regulatory framework. While there may be a distinction in the end user, the safety needs and the public health impact of both types of use are overlapping. Furthermore, CCLHO supports the complete separation of adult-use and medical cannabis commercial activities. We recommend further clarification of the term "premises" to explain how to keep businesses occupying the same parcel separate. In addition, we request that the specific language in the Business and Profession Code (BPC) 26070 (a)(1) and (2) that states a retailer or distributor may only manage cannabis according to their M type or A type license should also be added to BPC 26070 (a)(3) to clarify that a microbusiness must also follow these divisions.
2. Cannabis Use:
 - a. CCLHO supports clear restrictions on where cannabis use, including smoking, vaping and ingestion can occur. We also support the broad definition of smoking such that it includes vaping and other similar activities.
 - b. At present, the trailer bill has differential permissions for adult-use versus medical use. **The health officers strongly believe locations where cannabis can be used should be the same for both adult-use and medical use and recommend that the medical use of cannabis should be restricted to only those locations where adult-use can occur.** To a nearby person, including law enforcement officers or youth observers, the two different uses are indistinguishable, making enforcement a challenge. Specifically, we suggest the repeal of Health and Safety Code Section 11362.79, and adding medical cannabis into Health and Safety Code Section 11362.3.
 - c. We also request further clarification of the term "in public" to ensure that it includes public restrooms.
3. Advertising: Given the high risk of youth use, CCLHO strongly supports restrictions on how and where cannabis commercial operators can advertise. In general, we believe that cannabis advertising should be prohibited on television or the radio. Short of that:
 - a. We support only allowing advertising communications where at least 71.6% of the audience is expected to be 21 years of age or older and that direct communications to verify age (BPC 26151(b)(c)). **We also support the prohibition on advertisements that are attractive to children (BPC 26152(f)).**
 - b. We support the prohibition of advertising within 1000 feet of schools and other youth centers in BPC 26152(g) and **recommend the broadening of this prohibition to include colleges, as the majority of undergraduate students are under the age of 21.**
 - c. We support the prohibition of advertising on interstate highways (BCP 26152(d)); however the health officers recommend that the prohibition should be expanded to cover any highway, not just interstate, as children may travel on any of them.
 - d. We believe that since cannabis merchandise, such as t-shirts and other souvenirs, are inherently attractive to children and their use serve as advertisements in areas otherwise prohibited, merchandise promotion commercial cannabis should be prohibited.

- e. We support the existing provisions in BCP 26151(a), which require advertisements to identify the licensee responsible and recommend that this provision also include entities beyond licensees who pay for the advertisement (including contact information if the advertiser is not a licensee) to ensure transparency and accountability.
 - f. **The health officers support the existing restriction on giveaways in BPC 26153. However, we request a broader definition to ensure the intent of the law is followed.** Examples given in the definition should also include discounting, coupons, buy-one-get-one deals, and happy hours. In addition, the definition should clearly include the donation of cannabis products to promotional events, i.e. a non-profit fundraiser.
4. **Youth on premises: We support BPC 26140, restricting youth under 21 years of age from being on the premises of adult-use commercial activities, including as employees.** We believe the risks extend to youth employees of medical operations and therefore the same requirements should apply. To protect current employees from job loss, we suggest grandfathering in existing employees but not allowing new under-age hires.
 5. **Medical Cannabis ID Card Program:** CCLHO supports the elimination of the medical ID card program as it is unnecessary. The program has low use and does not provide added value over the use of the medical recommendation itself. CCLHO would like assurances that elimination of the state program does not create a mandate on local jurisdictions to continue the program. In addition, should a local jurisdiction decide to create their own program, we suggest authorization for local programs to access medical records to determine whether to issue or decline an application.
 6. **Setbacks:** We are pleased that current law and proposed changes include setbacks requiring the placement of cannabis businesses away from sensitive areas. We support setbacks from schools, day care centers, and youth centers as outlined in BPC 26054. **However, we recommend the extension of these setbacks to 1,000 feet to match advertising restrictions. We also recommend the addition of colleges (since most college students are under 21 years of age) and drug treatment centers.**
 7. **Sales of Alcohol, Tobacco and Food: CCLHO strongly supports BPC 26054(a) prohibiting a licensee from selling alcoholic beverages or tobacco products on or at any premises licensed under the division. We recommend expanding this prohibition to include food production for all license types.** The production of both edibles and food products on same premises present safety concerns, and risk of accidental ingestion. Retailers ought not to sell unpackage edibles or unpackage food items that can then be mixed together.
 8. **Track and Trace: CCLHO supports a robust track and trace program, including strict inventory controls for all licensees.**
 9. **Adulteration:** The health officers supports BPC 26131 defining product adulteration as well as granting authority to CDPH to manage adulterated products. We recommend ensuring CDPH has adequate authority to embargo and destroy products, as necessary.
 10. **Enforcement: The health officers want to ensure adequate funding and capacity exists to enforce cannabis laws and regulations.** State agencies need sufficient funding and resources to perform adequate inspections, at least once per year, to ensure permit compliance. CCLHO also recommends that State agencies annually report the number of violations in each local jurisdiction.

- a. In addition, because there is often a need for a more rapid local response, while the responsibility for enforcement of state regulations and statutes lies with the state agencies, CCLHO recommends that the trailer bill include explicit authority for a local agency, at its discretion, to investigate and enforce.
 - b. The health officers are concerned that the trailer bill does not provide adequate clarity on the Health Officer authority within the cities which are typically under county health officer authority for other health-related issues. **We believe language should be added to explicitly authorize the Health Officer, at his or her discretion, to enforce cannabis issues that create a threat to human health.**
11. **Criminal Acts: CCLHO recommends that the trailer bill add to the list of prohibited acts that it is a crime to give cannabis, in any form, to an individual without that individual's knowledge.**
 12. **Funding: CCLHO appreciates the funds for a public information program in BPC 26211 and supports the shift of this funding to CDPH, which is experienced in effective public information campaigns related to tobacco. CCLHO also believes it is critical that funding is made available at the local level to address local needs. Specifically, funding is necessary to support monitoring and epidemiologic study of cannabis impacts as well primary prevention efforts, including outreach and education.**
 13. **Cannabis Product Definition: The health officers recommend a clarification to the definition of cannabis products (HSC 11018.1) to clarify that existing regulations only legalize cannabis products made for human use and that cannabis products for pets are not permitted.**
 14. **Pesticides: CCLHO supports strong regulations on pesticide use, particularly as health impacts of exposure have not been studied in the context of cannabis production and use.**
 15. **Testing: The health officers support comprehensive testing requirements to ensure product safety. CCLHO supports BPC 26053, which prohibits a person with a state testing laboratory license from employing an individual who is also employed by any other licensee that does not hold a state testing laboratory license. Moving the details of microbiologic impurity testing to bureau regulations in BPC 26101 (c) is acceptable. However, the health officers recommend, concurrent with this, that the addition of specific language authorizing the bureau to add to the list of required testing via the regulations process.**
 16. **Packaging and Labeling: CCLHO supports detailed packaging and labeling requirements to prevent youth access and use, prevent accidental consumption, and ensure users have information on product contents and safety.**
 - a. We strongly support BPC 26120 requiring tamper-evident, child resistant packaging that is not attractive to children.
 - b. In addition, we support labeling requirements that include clear identification that the product contains cannabis, the amount of all active ingredients, the amount per serving and the number of servings, the listing of other ingredients and allergens, and unique identifiers
 - c. CCLHO supports warning labels and, based on available data, recommends two adjustments:
 - i. The statement that "cannabis use while pregnant or breastfeeding may be harmful" is insufficient. The warning should clearly state that cannabis should not be used by those who are pregnant, breastfeeding or planning to become pregnant. For example, The

American Congress of Obstetricians and Gynecologists (ACOG) states that for breastfeeding, "marijuana use is discouraged."

- ii. An additional statement should be added to reflect the clear evidence indicating impact on the developing brain and the recommendation against use by individuals under 25 years of age.
 - d. The health officers support limitations on the amount of THC per serving in BPC 26130 (b)(2) and recommend the addition of limits on the number of servings per package.
 - e. The health officers also recommend imprinted stamps on each individual serving of an edible cannabis product to ensure that if the product is removed from its packaging, it is still identifiable as a cannabis product with a certain THC content.
17. **Storefronts:** CCLHO recommends that retailers and microbusinesses should have a clear physical storefront location and not solely operate as an on-line industry. This will ensure the ability to do inspections and confirm compliance with both sanitation requirements as well as inventory and response to complaints. This will also facilitate a better understanding of who has enforcement authority, since each location of operations will clearly be within a jurisdiction. The Health Officers further recommend no internet or phone sales of cannabis.
18. **Deliveries:** The health officers request that BPC 26090 include a more detailed definition of what delivery entails. We recommend that deliveries be limited to those who have made specific orders in advance, in order to ensure that the business is not a mobile retailer. **Further, the health officers request clarification that the jurisdiction in which a delivery occurs is the jurisdiction which has authority over delivery rules and regulations.**
19. **On-Site Activities at Commercial Operations:** CCLHO believes that clear restrictions must exist as to what activities can occur on the premises of commercial operations.
 - a. **CCLHO opposes BPC 26200(d) which allows local jurisdictions to authorize on-site smoking, vaping or ingesting at a retailer or microbusiness.** Smoking and vaping is an occupational health concern for employees, and this section is not aligned with state tobacco law. Onsite ingestion poses a potential for overdose if the retailer is removing product from packaging and/or if retailer is combining cannabis product with other products, such as foods. And finally, onsite consumption poses the safety risk of individuals driving under the influence.
 - b. CCLHO recommends that commercial premises should be limited to commercial operations only and not be permitted to have additional activities on site. Prohibited activities should include, but not limited to: special events or parties, food retail activities (i.e. coffee shop), tasting events, fund-raisers, gyms, spas, and classes.
20. **Off-Site Activities by Commercial Operators:** CCLHO recommends specific language restricting commercial operators from selling or distributing product off-site from the specific land-use location where they are licensed. This should include prohibition on temporary retail locations at events such as sales at private or public events, farmer's markets, gyms, or workshops. We propose a ban on cannabis-related activities similar to food trucks.
21. **Vertical Integration:** The health officers are concerned about the potential impact of vertical integration and should the microbusiness license type continue, CCLHO recommends the inclusion of clear limitations on the size of the operations to keep microbusinesses small. Moreover, BPC 26070 specifies that retailers and distributors shall only sell cannabis according to

the license type (adult-use or medical). It does not say the same for microbusinesses. CCLHO recommends that the same requirements apply to microbusinesses.

In conclusion, the California Conference of Local Health Officers appreciates the chance to provide recommends on the cannabis Trailer Bill provisions. We recognize the months of hard work that went into crafting these provisions, which are clearly aimed at establishing a well-run industry while protecting public health. We hope our recommendations, which come from a population-based disease and injury prevention perspective, are helpful in furthering your aim to protect public health.