

ESTABLISHING A NEW, LOCAL MEDICAL CANNABIS INDUSTRY: KEY PRINCIPLES

PREPARED BY JAMES F. MOSHER, JD • ALCOHOL POLICY CONSULTATIONS • MARCH 2018

1. Establish public health and safety as the primary goals and purpose of the new industry and regulatory structure.

The industry's primary goal of the new regulations should be to provide safe and effective medicine to patients while protecting public health and neighborhood safety and well-being. Protecting young people from harm is of particular importance.

2. Require or encourage all businesses to operate as non-profit organizations.

The primary mission of the business should be to provide alternative medicine to patients in need, which fits squarely into a non-profit model. Cannabis is a potentially addictive substance, and experience with alcohol and tobacco industries shows the risks associated with placing addictive products into a for-profit, corporate structure. From a public health and community safety standpoint, these new businesses should not have maximizing profits as their primary mission.

Removing the profit motive from business operations can align the interests of businesses with those of the community. First, the profit reduces the likelihood of aggressive marketing practices which increase the risks of sales to non-patients, putting the community and young people at risk. As noted above, the purpose of the new industry should be to provide alternative medicine to patients in need. Marketing can be kept at a minimum to meet this goal. Second, with a reduced profit motive, there is less incentive for businesses to put political pressure on regulatory and policy making agencies to loosen restrictions and expand sales.

3. Keep the industry as locally controlled and operated as possible.

Establishing local businesses will enhance regulatory implementation and enforcement, including collection of fees and taxes. Local regulation will also promote quality control of the medical cannabis that is produced, delivered and sold. The primary source for products sold at local dispensaries should therefore be from cannabis that is *locally* grown and produced, and deliveries to patients should only be allowed from dispensaries within the jurisdiction. Exceptions might be made only when particular strands of cannabis that are determined to have unique medical benefits are not available locally.

The principle of local control should not be interpreted to exclude industry members (cultivators, manufacturers and dispensary operators) who reside outside the jurisdiction from participating in the new industry. They may bring special skills and experience that will benefit local patients. Out-of-jurisdiction, non-profit organizations should be required to establish local business offices and have local management personnel.

4. Keep individual operations small.

The cannabis industry, as with other industries, is subject to economies of scale – businesses can operate more efficiently and profitably by growing in size. Without regulatory constraints, relatively rapid consolidation through mergers and acquisitions is anticipated, to the detriment of small businesses. This natural tendency has at least three negative impacts on public health, safety and community cohesion: (1) Expanding capacity also increases the need to expand sales. Larger businesses have both a larger incentive and resources to engage in aggressive marketing. (2) Larger businesses are more likely to exert undue influence on regulatory and public policy entities. (3) High quality cannabis medicine requires careful attention to cultivation practices that are not suited to mass production (see below). In general, promoting small businesses enhances community by spreading business opportunities and promoting community engagement across diverse populations.

5. Ensure that only high quality, safe products that are not attractive to children are made available to patients.

Organic farming methods free of harmful pesticides should be encouraged, with regular monitoring of all licensed cultivation sites and products sold at dispensaries. Restrictions should be placed on the THC concentration of cannabis products as well as the types of products and packaging that are attractive to children.¹

6. Impose fees and taxes that ensure adequate regulatory enforcement and funds for prevention and treatment programs.

If the new industry will be operating on a not-for-profit basis, the excess revenues from the sales of medical cannabis (after providing for employee and overhead costs, including a contingency fund) could be used to fund compliance, prevention and treatment efforts through the imposition of fees and taxes. Fees will need to be adjusted over time as the industry matures and grows.

7. Phase in the industry in a deliberate process starting on a small scale.

Starting a new local industry involves a great deal of uncertainty on numerous fronts: How much demand for medical cannabis is there? What is the optimum size for cultivation sites in terms of meeting demand while also making the business financially viable? How many cultivation sites and dispensaries are needed? How should the new businesses be regulated and what are the best methods for insuring compliance with the new regulations? What impact is the new industry having on public health and safety, including potential sales to minors and public nuisance problems in and near the dispensaries and cultivation sites? Phasing in the local industry over time will provide opportunities to update and revise regulations making any corrections that are needed to ensure a viable and safe new industry. It is far easier to oversee a gradual expansion of the industry while making midcourse corrections than attempting to constrict its size over time.

¹ A model ordinance prepared by the Public Health Institute provides specific guidelines for implementing this principle. Silver, L. & Padon, A. *Model Ordinance for Regulating Local Cannabis Retail Sales and Marketing in California*. Oakland, CA: Public Health Institute, December 2017.