



Legislative Priorities and Policy Positions 2017

The following *Legislative and Regulatory Priorities* – items 1-18 on pages 1-6 - have been identified by staff, with input from the [California Cannabis Industry Association](#) (CCIA) Legislative Subcommittee and Board of Directors (Board), as its legislative and regulatory priorities for the 2017-18 Legislative Session.

CCIA Guiding Policies and Principles –pages 6-7 - represent CCIA policy positions adopted by the Board in response to legislation in prior legislative sessions. These priorities shall be updated as needed, with input from the Legislative Subcommittee, the Board and the broader membership.

Formed in 2012, CCIA strives to unite California's cannabis industry and speak with one voice at the state and local levels. CCIA strives to educate and inform policy makers on all segments of the cannabis industry and currently represents over 250 members.

I. LEGISLATIVE & REGULATORY PRIORITIES

MCRSA / Prop 64 reconciliation and MCRSA clean-up

While distinctions between the medical and adult use cannabis frameworks are important, discrepancies between the two frameworks will complicate implementation for state and local agencies and make compliance more difficult for licensees. CCIA's legislative and regulatory priorities concerning the [Medical Marijuana Regulation and Safety Act](#) (MCRSA) and [Prop 64](#) reconciliation and MCRSA clean-up are outlined below.

1. Support greater flexibility with owner or applicant thresholds by conforming the language in the MCRSA to the language in Prop 64.

- Under the MCRSA, an applicant/owner is defined as an owner or owners including all persons or entities having ownership interest other than a security interest, lien, or encumbrance on property that will be used by a licensee. The threshold for determining ownership for a publicly traded corporation is 5 percent and remains undefined for other entities. Conversely, Prop 64 defines as applicant/owner as having an aggregate ownership interest of 20 percent and control, including publicly traded corporations.
- If the applicant ownership threshold is set unreasonably low and inconsistent with the ways that many existing businesses have been financed, access to capital will be severely restricted.
- Many existing cannabis businesses have attempted to operate in a legally compliant manner. Many of these businesses have investors from various parts of the country. Those investors are likely passive and may already own up to 20 percent, but have issues with becoming an applicant of a cannabis business that could conflict with their normal business operations.
- It can be difficult to divest current investors who made their investments before the proposed regulations were set. Furthermore, we believe the 5 percent ownership threshold is too low for a publicly traded corporation because it is not a stable metric for effective

control of a license. Therefore, a 20 percent threshold would have a much smaller impact on existing business and business access to capital.

2. Eliminate cross licensure restrictions in the MCRSA by allowing vertical integration, as currently authorized under Prop 64.

- The MCRSA places restrictions on the number and type of licenses cannabis businesses may acquire.
- Prop 64 includes limited prohibitions against cross-licensure and permits an existing, vertically-integrated small business in the industry to be licensed by the state without forcing it to divest itself of any part of its enterprise.
- To facilitate effective enforcement and compliance there should be parity between cross licensure rules in the medical and adult use cannabis regulations.

3. Modify the closed distribution model under the MCRSA and allow for both third-party distributors (aka “independent” distributors) and licensed “in-house” distributors owned by licensed cultivators, manufacturers and/or retailers.

- Reconcile the MCRSA and Prop 64 frameworks to eliminate the independent, third party distribution model in the MCRSA and allow cultivators, manufacturers and dispensary operators to hold distribution licenses as allowed under Prop 64.
- Mandating that the Type 11 licensee only hold a distribution license is unnecessary for the following reasons:
 - Strict track and trace requirements in the MCRSA and Prop 64 will already be tracking cannabis products from seed to sale.
 - State authority already exists to audit the operation of all licensees.
 - Licensees already have a vested interest in the maintaining the quality and integrity of their products.
 - The ability to innovate and bring new products to market is compromised under the independent distribution framework. Cannabis operators need the flexibility to bring new products to market quickly to maintain the spirit of entrepreneurialism California is known for.
 - Mandating that distribution only be performed by an independent distributor will not reduce or prevent unlawful diversion and could have the unintended effect of increasing diversion in earlier points in the supply chain, prior to the distribution “choke point.”
 - Both the medical and adult use frameworks already provide that a testing facility license (Type 8) be an “independent license.” It is also the entity responsible for quality assurance testing.
 - Requiring the distributor to acquire all the product for purposes of third-party testing is an inefficient and costly process. It also subjects the distributor to greater liability should the product be stored inappropriately and compromise the integrity of the product, which will unduly harm the cultivator and manufacturer, whose brand would be compromised.

4. Co-location of cannabis businesses: Define “premises” to support multiple licenses “under one roof.”

- Both the MCRSA and Prop 64 direct the licensing entities to define “premises” and determine whether multiple licensees may operate in one physical location or parcel.
- Many local jurisdictions have already enacted local ordinances that permit cannabis businesses to dispense, cultivate, and manufacture medical cannabis products on one

premise. The definition of the word “premise” will have a significant impact on these ordinances, as well as on a licensee’s ability to legally operate once state licenses are issued.

- Many local jurisdictions have banned or severely restricted cannabis businesses in their communities. It is critically important that multiple licenses – both medical and non-medical - be permitted on one premises in these jurisdictions. This model will allow cannabis businesses to relocate to locally approved hubs, encourage the creation of natural clusters, and minimize potential impacts to public safety, as clustering multiple businesses in one location is easier to monitor and regulate. As an example, a “medicinal cannabis campus”, like what biotechnology companies or public-private research centers do should be encouraged.
- Many local jurisdictions have enacted local ordinances that created a vertically integrated closed loop system, as required by the [2008 State Attorney General Guidelines](#). These ordinances and regulations already permit medical cannabis providers to dispense (commercial storefront sales), cultivate, and manufacture medical cannabis products on one premise.

5. Enact a phased-in licensure model to allow businesses to temporarily continue working with unlicensed entities.

- Under existing the MCRSA framework, once an applicant receives their state license, they can only do business with other state license holders. This creates a problem because the entire industry will not receive their license at the same time.
- A transition/grace period should be established so that licensing entities may continue to do business with unlicensed and/or pending applicants for a set amount of time.

6. Allow testing laboratories to perform quality assurance testing prior to the distribution step.

- Chain of custody protocol is critical for a laboratory to be an effective regulatory tool.
- Under existing state law medical cannabis and medical cannabis products will be transported and stored by a licensed distributor at a distribution facility. At this phase, medical cannabis and medical cannabis products can be broken down and repackaged and/or stored for an undisclosed period. This raises many concerns regarding contamination and liability.
- All transfer or transportation should be performed prior to the distribution step, as seen in many other regulated industries.

7. Suitability criteria: Ensure equitable treatment of locally authorized applicants when determining license eligibility.

- Considering that men and women of color have been disproportionately punished by the war on drugs and suffered immense harm, many individuals with past drug offenses on their records have been excluded from participating in this new industry thereby furthering historic inequities.
- With the passage of Prop 64 and Prop 47 (2014) and the reduction of past drug offenses, some wrongs have been addressed.
- The medical cannabis industry is moving from an illegal market and some existing operators have had run-ins with the law. It is imperative that locally authorized licensees are authorized to obtain a state license, whether they have a prior conviction on their record or not.

8. Ensure non-profit vs. for profit conversion is efficiently and effectively completed.

- Collectives and cooperatives may convert from non-profit entities to for-profit entities prior to January 1, 2018 or before the licensing authorities have commenced issuing licenses pursuant to the MCRSA, whichever is later.
- Work with the State Legislature and the Secretary of State to ensure that existing state laws and regulations do not hinder the Secretary of State from completing the conversion process in a timely manner.

9. Conform the MCRSA to Prop 64 as it pertains to delivery. Support the creation of a new state license authorizing, non-storefront delivery license.

- Under the MCRSA, mobile deliveries are permitted unless explicitly prohibited by a local jurisdiction through the enactment of a local ordinance.
- Conversely, mobile delivery is authorized under Prop 64 and prohibits local bans.
- MCRSA should be amended to conform with the mobile delivery provisions in Prop 64, so patients are not denied access to critical medicine.

10. Create monetary transportation threshold so security requirements are not cost-prohibitive for small and startup companies.

- Under the existing MCRSA framework, there is no threshold as to when the transportation security requirement is triggered.
- Under existing law, a transporter that is moving a few boxes of a cannabis topical spray would be required to have the same security requirements as a transporter that is transporting 1,000 pounds of raw cannabis. This creates cost prohibitive barriers for small and independent transportation companies.
- Create a monetary threshold for when the security requirements kick in would give small and startup transportation companies the ability to compete.

11. Legalize inter-collective contracts.

- Currently, collectives and cooperatives are not expressly permitted to contract with each other for the purchase and sale of cannabis products, and must use individual overlapping patient-members as “middlemen” to facilitate such transactions. This is highly inefficient, and exposes individual patient-members to additional unnecessary risk.
- The MMPA should be updated to expressly permit collectives to contract with each other so long as they are formally incorporated (and therefore have the legal capacity to enter contracts) and are compliant with applicable BOE requirements.

12. Support urgency legislation to establish uniform law enforcement standards relative cannabis transport.

- Clarify that locally compliant cannabis businesses are not subject to criminal penalties for transporting medical cannabis and medical cannabis products on state highways prior to the issuance of state licenses.

13. Clarify language in the MCRSA relative to cannabis misbranding.

- Amend language that was added to the MCRSA, pursuant to budget trailer bill SB 837 (June 2016), relative to the misbranding of medical cannabis.
- Specifically, add a provision to Business and Profession Code aimed at clarifying that the Department of Public Health shall not deem a product misbranded if its therapeutic value can be substantiated by scientific or medical findings or patient testimony or research.

OTHER KEY LEGISLATIVE PRIORITIES

14. Prevent Federal actions against compliant cannabis operators.

- Prevent state and local governments from sharing information with the federal government on compliant cannabis operators in California.
- Prevent state and local law enforcement from cooperating in federal raids on compliant cannabis operators in California, should the Trump Administration repeal the [Cole Memo](#).
- Encourage legislative leaders to include cannabis among the key policies for Eric Holder to defend if the Trump Administration attempts to enforce the Controlled Substances Act as it relates to cannabis enforcement.

15. Oppose excessive and overly burdensome taxation schemes at the state and local level.

- By January 2018, dispensaries of medical cannabis will be required to collect the new state excise tax on all sales. There will also be state taxes on cultivation. This does not include any local taxes that may be imposed.
- The cannabis industry is willing to pay its fair share of taxes, but opposes overly burdensome tax schemes that encourage black market activity, harm patients, and force businesses to relocate to jurisdictions with reasonable tax structures.
- The cannabis industry also supports the imposition of a statewide taxation cap.

16. Support efforts to address banking challenges for cannabis industries and allow such businesses to fully and effectively participate in commerce.

- In the absence of a current banking solution, support legislation authorizing the Board of Equalization (BOE) and counties to collect cash payments from medical cannabis-related businesses for state agencies [[SB 148, Wiener/Atkins](#)].
- Work with the newly created [Cannabis Banking Working Group](#), created by the California State Treasurer, to develop recommendations designed to open access to the banking system to cannabis-related businesses to allow such businesses to fully and effectively participate in commerce.
- Support the [National Cannabis Industry Association](#) and other coalition partners in their efforts to enact a banking solution at the federal level.

17. Ensure access to funding and investment opportunities for cannabis businesses.

- Educate legislators, regulators and other stakeholder groups to ensure that access to capital is not further constricted because of overly burdensome regulations.
- For funding and investment, the market is still very selective about funding and investment for cannabis businesses. At the same time, there's is a huge demand for capital investment in the absence of a banking solution.

18. Allow cannabis trademarks.

- Allow registration of cannabis trademarks in California.
- Under existing federal law, the U.S. Patent and Trademark Office is not permitted to register trademarks for use on cannabis and any other goods and services, pursuant to the Controlled Substances Act. However, some states permit state trademark registration for cannabis and related products, but those trademarks are limited geographically to the state of registration.

- Existing state law does not allow registration of cannabis related trademarks pursuant to [Section 14272](#) of the Business & Professions Code, which states that California trademark law is to be “substantially consistent” with U.S. trademark law.



II. GUIDING POLICIES AND PRINCIPLES

1. Land Use and Environmental Sustainability. Support policies and new technologies that improve environmental sustainability within the cannabis industry, including efforts to promote water and energy efficiency.

- *Zoning and Permitting:* With many cities looking to tighten local land use and zoning controls, cannabis operators are likely to face an increasingly complex set of compliance and regulatory challenges. Navigating the political and legal landscape to reach successful business outcomes will likely depend on active outreach and an integrated approach by the cannabis industry to build community support.
- *Sustainability:* California's historic drought and global climate change have increased the need for private sector innovation. With the passage of Prop 64, the cannabis industry should work to develop creative sustainability solutions and best practices to manage water and energy resources efficiently.
- *Environmental Impacts and Outreach:* California's growing cannabis industry will draw greater attention from environmental interests and other stakeholder groups concerned about the environmental effects of cannabis operators. The cannabis industry should prepare to ramp up its community and environmental outreach to develop mutually beneficial solutions for both the industry and the environment.

2. Patient Protections and Access. Support policies that improve patient access to medical cannabis.

- Remove barriers that hinder a patient's ability to obtain a physician recommendation or safe, affordable medicine.
- The cannabis industry should work with patient groups to ensure county health departments have the necessary infrastructure in place to ensure patients can obtain their medical cannabis identification cards in a timely manner.
- The cannabis industry should oppose excessive tax schemes at the local level that hinder a patient's ability to access safe, affordable medicine.

3. Research & Development. Promote efforts to expand medical research on the efficacy of cannabis.

- There is bipartisan support in the U.S. House and Senate to amend the Controlled Substances Act (CSA) and ease federal impediments for medical research to conduct clinical studies on the efficacy of medical cannabis. However, the election of Donald Trump could undermine the federal support for the use and production of medical cannabis. The cannabis industry should work to ensure that medical research on the efficacy of cannabis at the federal level continues.

4. Driving Under the Influence of Cannabis. Work with law enforcement and relevant stakeholders to address impacts associated with driving under the influence of cannabis. Oppose efforts to enact per se standards that are not scientifically based.

- Existing state law does not sufficiently address driving under the influence (DUI) of cannabis. While existing law states, "It is unlawful for a person who is under the influence of any drug to drive a vehicle," there continues to be no clear threshold to measure cannabis-impaired driving.
- The cannabis industry should work with local law enforcement and other relevant stakeholders to establish a standard for measuring DUI impairment and oppose attempts to adopt a per se standard that is not based scientifically based.

5. **Labor & Employment.** Educate and inform employers about the efficacy of medical cannabis.
 - Support policies to ensure that employees, who are also medical cannabis patients, are not terminated based on legitimate medical use during non-work hours.
 - The passage of Prop 64 does not affect employers' rights to implement policies to ensure a drug-free workplace. Proposition 64 expressly preserves employer's right to "enact and enforce workplace policies pertaining to cannabis." Thus, employers can continue to prohibit possession or use on their premises or while an employee is on duty, as well as prohibit employees from being under the influence.
6. **Training.** Oppose policies that intentionally and/or unfairly prohibit licensed cannabis businesses from training its employees if such training meets requirements set forth by the licensing entities. Oppose policies that create an unfair advantage for labor organizations and independent out-of-state training program providers to perform training.
7. **Agreements with Tribal Governments.** With respect to tribal governments seeking to obtain medical cannabis licenses, support policies that require provisions requiring individuals conducting medical cannabis business activity on tribal land to meet the same state and local licensure requirements in which the tribal land is located.