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Denver City Council
1437 Bannock Street
Denver, CO 80202

Re: Preliminary Comments on Draft Text (Dec. 1, 2009)
Denver Medical Marijuana Dispensary Licensing Ordinance

Dear Denver City Council:

Thank you for the opportunity to provide comments to the Draft Medical Marijuana Ordinance in advance of the December 2, 2009 meeting. Specific comments follow:

Sec. 24-401. Purpose and legislative intent:

Amendment 20 specifically provides that the “distribution,” “sale,” “dispensing,” “production,” “manufacture,” etc. of marijuana for medical use is legal. Colorado Constitution, Article XVIII § 14(1)(b); § 14(2)(d).

If the true interest is “public health, safety, and welfare,” then parts of this proposal do not advance to this stated purpose. This proposal, if adopted, would harm public health, safety, and welfare, and would deny suffering people their medicine that licensed physicians recommend they have. It would make medicine less accessible, more expensive, and more dangerous for vulnerable suffering patients.

Sec. 24-405. Application:

(4) Requiring 24-hour contact information, names and addresses, for dispensary managers be provided to the general public, is a recipe for harassment and threats. Already, opponents of medical marijuana and other demagogues have whipped up and encouraged a climate of discrimination and hatred against these dispensaries. To require owners to take “public questions and concerns” 24 hours a day and provide a public address does not protect public health, safety, and welfare. Perhaps abortion providers operating in Denver should be required to provide similar street addresses and 24-hour contact information to address “public questions and concerns.”

(5) Previous conviction of drug offenses must not disqualify a person from serving as a primary caregiver. Many marijuana patients and caregivers picked up victimless marijuana-related criminal charges or convictions in the distant past, which should not be a bar if a person wishes to convert their previous activity and valuable skills to a lawful and legitimate job that helps suffering people. As currently phrased, this would prohibit a person convicted of a petty marijuana offense who paid a \$100 fine (an ordinance that Denver voters repealed).

(8) There should be no arbitrary distance limit from schools and day care centers, which would effectively ban the operations in some parts of the City and County. There is no documented case of any child ever purchasing or obtaining medical marijuana from a dispensary. A distance limit accomplishes nothing, as children are mobile and can travel to dispensaries, if that were a problem which it is not. It is unclear what “problem” a distance limit from schools “solves.” (This comment also applies to **Sec. 24-407, Prohibited locations.**) Why is 499 feet from a school unacceptable but 501 feet acceptable? There is no answer to this rhetorical question, i.e., the very definition of arbitrary.

As for the 1000-foot limit from other dispensaries, there is a similar objection to above, indeed concentrating dispensaries in certain locales probably benefits the consumer/patient as well as law enforcement. In conjunction with the 500-foot ban from schools, this would effectively further ban these from some parts of the City and County. It is unclear what “problem” a distance limit from other dispensaries “solves.”

Sec. 24-408. Requirements related to licensed premises.

Dispensary hours should not be limited, especially from 11pm to 11am. Why so late in the morning? Pharmacies are open 24 hours in some cases, since emergencies can occur and patients may need medicine at all hours. That said, most dispensaries now choose to limit their own hours, but should not be prohibited from having a 24-hour help line to provide medicine to patients in emergency situations on an as-needed basis.

On-site consumption, if properly set up, can be an important aspect of dispensaries. Many patients need to medicate in private area of dispensary since they have no other private area to do so, and children may be present in their homes, and the Constitution prevents use in “public view.” This would send people to Civic Center Park to medicate, which is unsafe and unsightly, and illegal.

Sec. 24-409 Requirements related to public health and labeling.

The labeling requirement would mandate labeling that is a misstatement of the law. Re-distribution to a third person is protected by the Constitution, and not a criminal offense, if the third person is a patient.

Sec. 24-410 Compliance with state law.

The source and quantity of the medicine is by definition lawful if amounts possessed are medically necessary for patients served.

A licensee would have a defense to criminal prosecution regardless of what this section says.

The \$2000 application fee and \$3000 license fee per year are too high.

Other Things to Consider

This is a constitutionally-protected medicine, that is currently overpriced because of high demand and low supply. Patients depend on this medicine in some cases for their lives.

Further restricting supply only drives up the cost for patients, who would be harmed by crushing regulations. The most vulnerable of patients are harmed the most.

The City Council should consider adding a prohibition on job and housing discrimination based on status as Medical Marijuana patient to the City's anti-discrimination ordinance.

Thank you for considering these comments. Please call me at 303-634-2244 with any questions.

Sincerely,

Robert J. Corry, Jr.