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February 25, 2015

**VIA ELECTRONIC MAIL**

The Honorable Senator Kevin Lundberg, Chairman  
The Honorable Larry Crowder, Vice-Chair  
The Honorable Irene Aguilar  
The Honorable Beth Martinez Humenik  
The Honorable Linda Newell  
Senate Health and Human Services Committee  
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**Re: Senate Bill 2015-014; Medical Marijuana**

Dear Chairman Lundberg and Committee Members:

The Law Firm of Corry & Associates has a long history of advocacy in favor of the constitutional rights of persons suffering from debilitating medical conditions to the medical use of marijuana. The Firm has won more cases against governmental entities related to this constitutional right than all other law firms in Colorado, combined. The Firm has successfully brought civil lawsuits against the State of Colorado multiple times to secure these rights, and have been awarded reasonable attorney fees after prevailing in Court.

The Law Firm and our clients strongly oppose Senate Bill 2015-014. This bill is a full frontal assault on the Supreme Law of Colorado, the Colorado Constitution, Article XVIII § 14 (“Amendment 20”), which has stood since 2001 protecting the right of patients to access medical marijuana.

Amendment 20 is a comprehensive provision that secures the right of patients to obtain and access medical marijuana from primary caregivers. Amendment 20 predates all dispensaries and retail shops, and unlike these merchants, Amendment 20 can only be removed by a vote of the People. Even the U.S. Department of Justice cannot remove Amendment 20 from the Colorado Constitution.

Amendment 20 operates in the real world. Confidentiality is paramount. Amendment 20 is not based on a naïve trust of law enforcement, after 70 years of Marijuana Prohibition. Distrust of Law Enforcement -- like the rest of the Constitution -- permeates this Constitutional provision. We acknowledge that marijuana is a controversial and unpopular medicine. No other medicine needs to be constitutionally protected against Government.

S.B. 014 would violate Amendment 20 in numerous and significant ways. As an initial concern, it is a common tactic of legislators to circulate amongst themselves -- and select lobbyists -- secret, unpublished edits of bills, a practice that prevents and challenges working, parents, job-holding, public from fairly commenting and analyzing legislative proposals. Accordingly, our comments are directed at the unpublished and undisclosed putative “redraft” (attached) obtained on 2.20.15 from inside sources. If this bill has been further altered in the meantime in secret lobbyist meetings, the Firm is unaware of it.

First, S.B. 014 requires “registration” of primary caregivers. The Colorado Constitution Article XVIII § 14 requires that all information in the Medical Marijuana Registry including primary caregivers, is confidential.

Second, S.B. 014 requires primary caregivers to retain “their papers” to show law enforcement on demand. The Colorado Constitution Article XVIII § 14 makes the practice of Americans showing “their papers” to law enforcement optional. Patients and

caregivers can be in complete compliance with the Constitution without any “papers” whatsoever. The first jury trial in Colorado history applying Amendment 20, People v. Margenau, Gunnison District Court (2006), established that a verbal doctor’s recommendation was sufficient to establish an affirmative defense. The Gunnison jury of twelve acquitted the Firm’s client of all criminal charges.

Third, during these interesting historical times when voters and legislators in Colorado -- and the rest of the United States -- are soundly rejecting Prohibition and its big-government foundation, S.B. 014 re-establishes Prohibition by imposing *criminal offenses* for these bureaucratic registration “crimes.” Prohibition does not work. Prohibition is a failure. Prohibition has been rejected by Colorado voters multiple times. Most recently, in enacting Amendment 64 in 2012. S.B. 014 recklessly imposes a *lifetime ban* on a person exercising his constitutional right to be a primary caregiver if he fails to register with the State. The Constitution contains no such limitation on exercise of this constitutional right. A primary caregiver is a sensitive, private, relationship between patient and caregiver into which the State is not permitted to intrude.

Fourth, S.B. 014 strangely and clumsily attempts to prohibit United States citizens from acting “in a cooperative manner.” This provision is simply bizarre, and legally-indefensible. Marijuana aside, the State must not, and cannot, prohibit free people in a free Country from associating with each other, and cooperating with each other.

Fifth, S.B. 014 somehow, in requiring a patient to obtain a “waiver” from the Department of Public Health and Environment to cultivate more than six plants, and even more attenuated, for a caregiver to have more than 36 plants, attempts to substitute the judgment of the non-physicians at the Department for the licensed physician(s) who actually meet with and examine a particular patient in the context of a bona-fide doctor patient relationship.

The Department of Public Health and Environment should not practice medicine. It is not qualified to practice medicine. It has never practiced medicine. It knows nothing about individual patients and their medical conditions. It is a gray, bureaucratic, soulless, ministerial governmental agency that simply issues Optional Registry Cards to patients, and it does not even perform this simple duty efficiently, and rarely has, distracted by its clumsy forays into politics over the years.

Sixth, S.B. 014 imposes a regulatory and licensing requirement on a patient cultivating more than 99 plants for his own use. A patient who is doing so could be following the recommendations of a licensed physician. The State should not be in the business of second-guessing licensed doctors who actually examine their patients and discuss with them their cultivation techniques, medical necessity, whether they use edibles (which are safer but require more marijuana to make), whether they are outdoor growers who only harvest once per year, whether they are members of poor, rural, or minority groups who cannot afford aggressive expensive artificial indoor grow operations, whether they are environmentally-conscious and wish to use the sun rather than electricity, and so forth.

In this context, violation of constitutional rights always depends on “whose ox is being gored.” Analogies are sometimes more persuasive than legal citations. For my friends on the Right, what would the response be to the bill that requires the registration with the State of any person who owns more than six guns? For our friends on the Left, what would be the response to a bill that requires the waiver for an abortion doctor who performs more than six abortions? Provocative question? Yes. How you feel about your guns and your abortion, is how we feel about our marijuana. Confidential, sensitive, controversial, beyond the reach of the State. Leave us alone. The existence of taxed marijuana “shops” does not change this.

Finally, what is the actual reason for trampling on all of these constitutional rights? To increase tax revenue to the State of Colorado, as stated in the preamble of the original published bill. Clearly, the proper legislative response is to reduce the current tax rates on Retail Marijuana which are literally higher than any other tax rate on any other product ever imposed in the 138-year history of the State of Colorado.

Governor Hickenlooper stated that Colorado voters in 2012 were “reckless” in expanding medical marijuana to recreational. This bill compounds that “reckless” misconduct by essentially eliminating the only aspect of Colorado’s marijuana “industry” that is protected from Federal involvement. The U.S. Justice Department has repeatedly stated that it supports *medical* marijuana. If the U.S. Attorney for Colorado or the U.S. Department of Justice opts to discontinue its selective impotence, the first Federal target will be recreational

marijuana, not sick and dying people who use medical marijuana to alleviate debilitating medical conditions such as cancer or HIV.

Thank you for considering our views on this important subject. We are happy to discuss any of your questions on this matter. We strongly advise a “No” vote on this reckless bill.

Sincerely,

Robert J. Corry, Jr.  
Matthew W. Buck  
Attorneys at Law

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