

AMERICANS FOR SAFE ACCESS

WASHINGTON, DC ~ SECOND PROPOSED RULEMAKING

General Provisions

The Alcoholic Beverage Control Board (ABRA) no longer has any control over the District's medical marijuana program. Instead, control now falls to the Board, "a hearing board delegated by the Mayor to conduct registration, licensing and enforcement proceedings involving cultivation centers and dispensaries."

The first come, first served policy is no longer in effect as far as registration for dispensaries and cultivation centers. The applications will now be scored on a 200 point scale. The applicant must have at least 160 points in order to be considered responsive. The categories on which applications for dispensaries are scored are as follows: Suitability of the proposed facility (up to 50 points), Proposed staffing plan and knowledge of District and federal law relating to marijuana (up to 20 points), Security plan (up to 50 points), Inventory and cultivation plan (up to 10 plans), Product Safety and Labeling plan (up to 40 points), Applicant's business plan, marketing plan and services to be offered, Educational materials plan (up to 20 bonus points).

The categories on which applications for cultivation centers are scored are as follows: Suitability of the proposed facility (up to 50 points), Proposed staffing plan and knowledge of District and federal law relating to marijuana (up to 25 points), Security plan (up to 50 points), Cultivation plan (up to 30 points), Product safety and labeling plan (up to 30 points), Applicant's business plan and services to be offered (up to 30 points), Environmental plan (up to 20 bonus points).

Dispensaries are permitted to dispense medical marijuana in "any form deemed safe" which allows patients to eat, inhale, or otherwise use medical marijuana for medical purposes.

Dispensary/Cultivation Centers Provisions

A cultivation center may possess and cultivate up to 95 living marijuana plants at any one time for the sole purpose of producing medical marijuana in a form permitted under this rulemaking.

Applicants may apply for both a cultivation center and dispensary. An applicant may apply for more than one cultivation center registration but may apply for only one dispensary registration.

A registered cultivation center or dispensary that discontinues its operations for any reason shall surrender its registration to the Board for safekeeping within three calendar days of discontinuing its operations.

Causes for Concern

The regulations are unclear regarding the Board. Currently, the number of people on the board as well as who will sit on the board remain unknown. ASA has been informed these will be “up to the discretion of the mayor.”

The point system to determine successful applicants for dispensaries and cultivation centers seems arbitrary in some categories. For example, it does not seem that the suitability of the proposed facility should be worth the same amount of points as the proposed security plan for dispensaries and cultivation centers.

While it is stated that cultivation centers may have 95 plants in their possession, there is no differentiation between mature and immature plants and nowhere in the document is there a definition of mature and immature plants.

A cultivation center is not allowed to hold educational seminars, classes, or discussions regarding medical marijuana for physicians.

Applicants may apply for both a cultivation center and dispensary. An applicant may apply for more than one cultivation center registration but may apply for only one dispensary registration. The number of cultivation centers one may apply for is not specified, leading to the possibility of a monopoly on cultivation centers in the District.

A cultivation center or dispensary that has temporarily surrendered its registration has up to two years to even initiate procedures to resume operations or transfer the license before the Board shall deem the registration abandoned and cancel the registration. This raises the possibility of one of five dispensary registrations or ten cultivation centers being held in limbo for up to two years, leaving only four dis-

pensaries or nine cultivation centers operating in the area.

Conclusion and Recommendations

The Board should remain relatively small – between five and seven members at the most. In addition, this Board must include at least one patient and one medical professional as members.

Cultivation centers should be allowed to hold educational classes and discussions regarding medical marijuana for physicians who wish to prescribe medical marijuana. Discussion should be encouraged among the medical community regarding topics physicians deal with in order to better serve their patients.

The point values should be reassessed for the evaluation of applications, making certain categories worth more and others fewer points.