



## **Cannabis Administration and Opportunity Act – Public Comment Letter Minorities for Medical Marijuana (M4MM)**

The path of racial, social, and economic empowerment through the Federal and State level legalization of Medical and Adult-Use Recreational Cannabis requires intentionality, policy, and broad economic considerations. The Commercial Cannabis sector is the newest entry into the legal pharmaceutical and healthcare industry; unfortunately has repeated many of the same failures of other older Commercial industry sectors regarding diversity, equity of opportunity and inclusion from the onset of the industry. Consequently, early-adopting States and municipalities have failed to include policy to drive ownership and economic empowerment for Non-White communities in the initial Statutory language and Municipal level ordinances. Thus, diversity of ownership and executive level leadership is lacking and can institutionalize disenfranchisement without intentional Federal, State and Municipal policy correction through amendment of existing statutory law or in adopting new Statutes to drive inclusion.

We at Minorities for Medical Cannabis (M4MM) believe in applying a detailed policy approach to social equity and broadening the scope to include economic inclusion, employment expansion and career mobility, supplier diversity and community investment to the Cannabis Administration and Opportunity Act.

In our response to the introduction of this historic legislation, we ask for the following structural pillars be addressed to ensure equitable opportunity and impact of opportunity for persons from communities disproportionately impacted by the enforcement of previous Cannabis prohibition laws:

- **Licensing Structure and Process.**
- **Increasing the share of Minority Owner-Operator’s licensees.**
- **Economic Inclusion and Expansion.**
- **Employment and Professional Mobility.**
- **Supplier Diversity & Revenue Opportunity.**
- **Improving Health Outcomes.**
- **Social Justice Impacts.**

Minorities for Medical Cannabis recommends the following additions and revisions to the Cannabis Administration and Opportunity Act to drive inclusion, address socioeconomic and racial disparities, increase entry to and opportunities in the Legal Commercial Cannabis market by members of impacted communities and maintain economic, social, and healthcare sustainability for diverse minority and social equity applicants, Medical Cannabis patients and casual adult Cannabis Users.



### **Recommendation #1 -**

#### **Expungement & Federal-State partnering to reform expungement laws for the 12 prohibition States & the 19 Medical Cannabis only States:**

- M4MM supports the general policy direction of Sec. 311 Resentencing And Expungement but is concerned about the lack of corresponding application of Expungement to State level Cannabis related offenses. There are thirty-one states (12 Prohibition States and 19 Medical Cannabis only States) that lack a robust expungement program as would exist under the CAO Act. We would recommend the addition of Statutory language from Sec. 3053 and Sec. 3054 (b)(1)(B) to Sec. 311 directing the Department of Justice to implement corresponding technical support programs to work with the aforementioned States and allocate separate line allocation for grants to fund adoption of expungement programs in the 31 Non-Recreational Cannabis States, regardless of them opting into licensing of Adult-Use/Recreational Cannabis Licensing via the Community Reinvestment Grant Program.

### **Recommendation #2**

#### **Various conflicting sections of the CAO Act:**

- States' Rights versus Supremacy clause – In Subtitle B—Public Safety and States' Rights: This section clearly defines the principle of Federalism (the effects of the 10th Amendment, States Rights) that each State will be protected as respect to their individual rules. The 12 prohibition States and the 19 Medical Cannabis only States will not be forced to change their laws or accept the rules of other States. SEC 1110 preserves Federal, State, Municipal & Tribal authority in regulating Commercial & Recreational Cannabis.

Separately, “SEC. 301. Unlawful Businesses Without Cannabis Permit defines any entity or person operating without Federal Permits for licensed Cannabis Enterprises as an unlawful Cannabis Enterprises and SEC. 302 grants the Treasury Department the ability to deny Federal operating permits for a State Licensed Business (opening a new State Licensed business, operating an existing State licensed business or expanding their State Licensed business). There will be situations where a State level licensee meets all of its licensing requirements but fails to meet Federal requirements and is denied a permit under SEC. 301. On page 141, Subtitle B - Federal Administration, Title III Cannabis makes it a crime to operate as a Commercial Cannabis business without a Federal permit. This provision conflicts with Subtitle B—Public Safety and States' Rights section, as it's invokes the Supremacy Clause jurisdiction via legal operations for Cannabis Enterprises. This needs to be addressed, to provide statutory definition for State Licensed business operations, compliance grace period to meet Federal Permit approval and possible grandfathering provisions for legacy State Level licensees with multiple years of operations to obtain a Federal Permit.



- Interstate Commerce (Commercial Licensed activity, Personal use activity) – Our review of Sec. 111 (b) and (c) provides conflicting actions under subsection Sec. 111 (b) Shipment Into States For Possession Or Sale In Violation Of State Law reads that Interstate Commerce into or across states where cannabis for adult-use remains illegal will be Prohibited under the CAO Act. Descheduling & Decriminalizing will not exempt people from criminal offenses if they violate this provision.

The next section, (c) Transportation Of Cannabis And Cannabis Products, appears to protect Interstate Commerce activities along with personal use activities, but our assessment of the two is that Commerce Activity would be illegal if the related activity from the initial State (i.e., an adult-use Cannabis licensee in Oregon) to the receiving State (i.e., a Medical Cannabis licensee in Arkansas) because of Adult-Use Cannabis is not legal in Arkansas. For the 12 Prohibition States & 19 Non-Adult-Use Cannabis States, the shipping of Cannabis could be problematic with respect to how you could craft Administrative Rules to address this 3-tier system. Any resolution to this should include clarifying language to eliminate Statutory conflicts and divergent judicial rulings if these matters go to Courts.

### **Recommendation #3 -**

#### **Depository banking with Tax proceeds in Minority owned licenses:**

M4MM believes that the CAO Act provides an additional opportunity to strengthen African American and other Minority Owned Financial Institutions by integrating them into the banking services model for the Commercial Cannabis Industry. M4MM recommends using Sec. 3053. Funding From Opportunity Trust Fund - (b) Authorization Of Appropriations and “Sec. 9512. Opportunity Trust Fund (b) Establishment Of Trust Fund to establish a depository relationship for tax proceeds with Minority Financial Institutions and directing SBA lending activity through Minority Financial Institutions. Our recommendations include:

1. Depository relationship for Opportunity Trust Funds into Minority Financial Institutions - Add language to direct the Treasury Department & Federal Reserve to engage Minority Depository Institutions to become depository institutions for Cannabis banking. Add language to tie depository percentages to African American, Latino American, Asian American, Native American & Multi-Racial American Banks.
2. Add language to direct SBA lending activity by Federal Reserve Facilities through Minority Depository Institutions and inflows of dollars for loans and investment to support Socially & Economically Disadvantaged licensees.
3. Add language to provide regulatory processing and financing support to Community Development Financial Institutions and Minority Depository Institutions (Banks & Credit Unions) that provide banking services to Cannabis licensed businesses.
4. Ease any restrictions that exist on financial institutions from using licensed Cannabis business deposits as a part of their normal external lending portfolio and intra-bank lending assets and notes.

### **Recommendation #4 -**

#### **Strengthening the Community Reinvestment Grant Program**

Adding verbiage by including additional program activities through Statute to include:



1. **Supplier diversity programming** within the equipment, product materials and trucking/transportation sector and vendors including intra facility, non-plant touching and external ancillary service vendors for State Level Commercial Cannabis licensing, to better distribute the overall economic impacts through Minority, women, disabled and veteran owned supply chain vendors.
2. **Social Equity Employment to Ownership (SEEO)** - programming for social equity individuals who lack direct financial and professional operational experience to start a licensed business but meet a multitude of key Social Equity and social economic criteria as an eligible employee to ownership candidate.
3. **Prisoner Re-Entry to Employment Program (PREEP)** - Establishment of direct training and placement programs for persons soon to be returning from the Corrections System (six months to release) and those in Prison Re-Entry programming with in-facility Horticultural Certificate training for and hiring placement.
4. **Establishment of Equal Employment Opportunity Commission** and employee rights divisions within State Regulatory Agencies to protect Cannabis workers from unsafe and predatory employment environments.

#### **Recommendation #5 -**

##### **Higher Education partnerships with Minority Colleges & Universities for Cannabis Research Sec. 504 Research on Cannabis**

SEC. 504 - The HHS department will be tasked with providing grants for Medical Cannabis usage and applications. Recommended additional verbiage to this section:

- Integrate Medical Cannabis licensees into the research funding opportunities by incentivizing partnerships between licensees and research universities and/or have Clinical Registrant licenses.
- Enter into research partnerships with Historically Black Colleges and Universities (HBCUs), Tribal Colleges and Universities (TCUs), and institutions such as Hispanic-serving institutions (HSIs), Asian American and Native American Pacific Islander-serving institutions (AANAPISIs), and other Minority-Serving Institutions (MSIs) for Medical Cannabis research studies.
- Also add 501c3 Non-Profits currently serving Medically underserved communities and populated areas.

#### **Recommendation #6 -**

##### **Codifying opportunities for qualified Cannabis Experienced Non-Profit organizations to support Federal Research programs in the CAO Act**

- Add the following language “(2) The term ‘eligible entity’ means a non-profit organization, as described in section 501(c)(3) of the Internal Revenue Code and exempt from taxation under section 501(a) of such Code, that is representative of a community or a significant segment of a community with experience in providing relevant services to individuals adversely impacted by the War on Drugs in that community. From Sec. 3054 (b)(1)(B) to Sec. 504 Research on Cannabis; Sec. 201. Societal impact of cannabis legalization study, Sec. 202. Public health research and Sec. 203. Cannabis-related highway safety research. This will codify opportunities for Non-Profits serving



Underserved and Socially Economically disadvantaged communities with related Cannabis policy and impact experience to provide services via Federal Grant programming.

**Recommendation #7 -**

**Protecting the Caregiver model from elimination via the CAO Act**

Sec. 112. Diversion Of Cannabis could be used to promulgate administrative rules to codify the Caregiver Role in the Medical Cannabis sector. It would be unreasonable to assume that the Secretary will codify Caregiving as a quasi-business entity under each State's Medical Cannabis program. The DOJ via the ATF's involvement in this work group will recommend making unregulated Caregiving illegal, which would fit with Sec. 5902(b)(A)(iii) Definitions of Cannabis Enterprise, Personal Use Exception (a Caregiver wouldn't qualify for Personal Use Exception because they are producing Cannabis for other people), Sub-chapter B - Authorization and Bond Requirement and Sec. 301. Unlawful Businesses without Cannabis Permit. As written, the Secretary of the Treasury will determine personal use production limitations to protect the public and protect the revenue. The Department of Treasury will also likely recommend determination that Caregivers are an illegal type of business in part due to the unregulated nature, their impact on legally generated revenue and the inability to levy taxes on these quasi-businesses. It is likely that the HHS Secretary would agree with the Treasury Department and DOJ due to the lack of quality control, testing and safety requirements for the production of both flower and processed products. Only State licensed Cannabis businesses are established in this Statute to have Commercial standing. Caregivers do not meet the definition of a "Cannabis Enterprise". Caregivers by State level definition are producers of Cannabis for the use by other patients. State registries for Caregivers don't fulfill the Commercial operational laws for regulatory enforcement nor the taxation model granted in this Statutory law. Caregivers also do not meet the requirements for the Personal Exemption, as it only allows for personal or family use and not for sale. There are only two paths for the Caregiver model to stay in compliance with the CAO Act:

1. Amend language in this provision and in the Personal Use Exception to identify and allow Caregiving roles to exist as a part of the Use Exception and as a protected action under Title Two in this Statutory language.
2. Incentive programming to encourage States to turn Caregiving into a specialty license, allowing for the regulation and licensing of Commercial Cannabis, which would fit with the section requiring all Federal Licensed business.