

October 17, 2018

Maryland Medical Cannabis Commission  
849 International Drive  
4th Floor  
Linthicum, MD 21090

**Attention: Mr. Brian Lopez, Chairman**

Dear Chairman Lopez:

MedChi, The Maryland State Medical Society, which represents more than 8,000 Maryland physicians and their patients, appreciates the opportunity to comment on draft regulations posted under the September 25<sup>th</sup> Policy Committee announcement regarding advertising. Our comments are focused strictly on the advertising prohibitions/restrictions affecting certifying providers. I recognize that this letter is being sent after the requested October 5<sup>th</sup> date. However, I hope you will still consider our comments, especially given the drastic shift in the September 25<sup>th</sup> draft from the drafts posted May 24<sup>th</sup> and June 25<sup>th</sup> as they relate to certifying providers.

In the draft regulations posted May 24<sup>th</sup> and again on June 25<sup>th</sup>, certifying providers were not included in the prohibitions affecting dispensaries, processors and growers. Rather, the previous draft regulations only stated that “a certifying provider may advertise the certifying provider’s ability to certify a qualifying patient to receive medical cannabis” and that “an advertisement by a certifying provider shall comply with COMAR 10.32.01.13(B).” COMAR 10.32.01.13 specifies the allowable advertising practices for all physicians in Maryland, which are enforced by the Maryland Board of Physicians.

However, in the draft regulations posted September 25<sup>th</sup>, these previous provisions were eliminated and certifying providers were “lumped into” the same provisions governing dispensaries, growers, processors and laboratories. To the best of our knowledge, no other state that permits medical cannabis regulates the advertising practices of certifying providers in the same manner as dispensaries, growers and processors. We strongly believe that doing so interferes with the ability for physicians to effectively communicate with patients. Unlike dispensaries, growers and processors, certifying providers are already required through the Maryland Board of Physicians to comply with strict advertising provisions and can be disciplined for violations.

Furthermore, I would argue the regulation may violate federal law and Maryland physicians’ Constitutional rights. As you may be aware, the Supreme Court left standing a 2002 decision by the Ninth Circuit Court of Appeals (*Conant v. Walters*) which ruled that federal government threatens to revoke physicians’ ability to write prescriptions because they discuss medical

marijuana with their patients interfered with the doctors' first amendment rights. This regulation clearly runs afoul of Conant and needs amendment.

Therefore, MedChi urges the Commission to remove the reference to certifying providers from the September 25th draft regulation. Thank you.

Sincerely,

A handwritten signature in blue ink that reads "Gene M. Ransom" followed by a stylized "III" with a horizontal line underneath it.

Gene M. Ransom, III  
Chief Executive Officer