

**Los Angeles County  
Advisory Working Group  
on Cannabis Regulation**

Meeting One:  
**KICKOFF AND ORIENTATION**  
*JUNE 29, 2017*

**PREPARATION PACKET**

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# Introduction

The Los Angeles County (County) Advisory Working Group on Cannabis Regulation is being convened by the Office of Cannabis Management (OCM), a division within the County Chief Executive Office, to develop recommendations for cannabis regulation in unincorporated County areas.

The OCM has coordinated closely with the County Board of Supervisors and multiple County departments to ensure that working group members represent a diverse range of stakeholders and viewpoints. Each Supervisor has recommended members to represent the interests of her or his district. The OCM has selected additional “at-large” members to represent other important stakeholders, including cannabis industry representatives, public health professionals, and experts on drug policy and drug and alcohol prevention.

Working group members will meet eight times during a 10-week period to discuss a wide range of topics pertinent to the legalization of cannabis in California. Discussions will cover youth access and exposure, taxation, operational and development standards for cannabis businesses, and personal-use cultivation, among many other topics.

The working group’s efforts will produce a set of recommendations that will provide a framework for the development of regulations for commercial and personal-use cannabis in unincorporated County areas. These recommendations will provide guidance to County policymakers, and may also be useful to cities and other counties throughout California that are studying cannabis regulations.

The Office of Cannabis Management has engaged Community Partners to assist with the organization and facilitation of the working group and public input process. Community Partners, a nonprofit fiscal sponsor and intermediary organization serving Los Angeles for 25 years, brings extensive experience around community engagement and program management. Learn more at [www.CommunityPartners.org](http://www.CommunityPartners.org).

## SECTION 1:

# Orientation Q&A

### **Section Contents**

- A. Background on the Development of Cannabis Regulations for Los Angeles County
- B. Background Information on the Advisory Working Group on Cannabis Regulation
- C. Mechanics of the Advisory Working Group's Meetings
- D. Expectations for the Advisory Working Group and Its Members

## **A. BACKGROUND ON THE DEVELOPMENT OF CANNABIS REGULATIONS FOR LOS ANGELES COUNTY**

### **WHAT IS LOS ANGELES COUNTY DOING TO REGULATE CANNABIS?**

- On February 7, 2017, the Los Angeles County Board of Supervisors (Board) directed the Office of Cannabis Management (OCM) to coordinate with over 10 County departments to prepare regulations for commercial and personal-use cannabis in unincorporated County areas. A summary of the Board's motions regarding cannabis regulation is included in **Section 2: Background on Los Angeles County's Efforts to Regulate Cannabis**.
- The Board prioritized community outreach and gathering input from stakeholders **before** regulations are developed to ensure that County regulators were able to draw on community concerns and expert insight when preparing regulations for the County.

### **WHAT COUNTY DEPARTMENTS ARE INVOLVED IN REGULATING CANNABIS?**

- Cannabis regulation spans multiple County departments. Regulations involve decisions about land use policies, zoning, business licensing requirements, environmental sanitation, fire and building safety concerns. Cannabis legalization also has public health implications and has the potential to impact County neighborhoods and residents in both positive and negative ways. The intersection of responsibilities across County departments and agencies is complex.
- The following County departments and agencies are actively working to develop appropriate regulations, education and outreach campaigns, and other programs in response to the legalization of cannabis:

- Assessor
  - Chief Executive Office/OCM
  - County Counsel
  - District Attorney
  - Sheriff
  - Agricultural Commissioner/Weights and Measures
  - Alternate Public Defender
  - Consumer and Business Affairs
  - Fire Department
  - Public Defender
  - Public Health
  - Public Works
  - Regional Planning
  - Treasurer and Tax Collector
- It is anticipated that staff from each of the above departments will participate in the Advisory Working Group, either by helping to prepare materials, being present at meetings to answer questions and workshop with working group members, or in other ways.

***DOES THE COUNTY HAVE EXISTING RULES IN PLACE FOR COMMERCIAL AND PERSONAL USE CANNABIS?***

- Yes. The County currently **prohibits** all forms of commercial cannabis, both medical and nonmedical (also referred to as “recreational” or “adult-use”) and has established rules for personal-use cannabis cultivation. A summary of existing County rules is included in **Section 2: Background on Los Angeles County’s Efforts to Regulate Cannabis**.
- However, the Board is likely to repeal the existing prohibition on commercial cannabis businesses once it adopts appropriate regulations. The Board may also decide to change existing rules for personal-use cannabis cultivation.

***ARE STATE AND FEDERAL OFFICIALS INVOLVED IN REGULATING CANNABIS?***

- Yes and no. Cannabis is illegal under federal law, and federal officials are not expected to pass regulations for the commercial cannabis industry. On the other hand, State officials are very involved in preparing regulations for commercial cannabis. A discussion of the laws governing cannabis and current regulatory efforts is contained in **Section 3: Federal, State, and Local Law Concerning Cannabis**.

## **B. BACKGROUND INFORMATION ON THE ADVISORY WORKING GROUP ON CANNABIS REGULATION**

### ***WHY IS LOS ANGELES COUNTY FORMING AN ADVISORY WORKING GROUP ON CANNABIS REGULATION?***

- The OCM is a unit within the County’s Chief Executive Office. The OCM is tasked with ensuring that the Board’s policies regarding cannabis regulations are implemented in a coordinated fashion by County departments and agencies.
- In consultation with Board offices and in close coordination with involved County departments and agencies, the OCM is establishing an advisory working group composed of experts and representatives of interested stakeholder groups to provide a framework, in the form of recommendations, that County regulators can utilize to prepare rules for commercial and personal-use cannabis.

### ***HOW WERE MEMBERS OF THE ADVISORY WORKING GROUP SELECTED?***

- Working group members were selected based on their backgrounds, expertise, interest in participating, and the County stakeholders they represent.
- Each Supervisor identified individuals to act as representatives of stakeholders in her or his district. The OCM identified additional “at-large” members who represent other interested stakeholder groups, including public health experts, drug policy experts, and industry representatives. The roster of working group members is included in **Section 4: Working Group Roster**.

### ***WHAT DOES IT MEAN THAT THE WORKING GROUP IS “ADVISORY”?***

- Most commissions, task forces, and working groups formed by the County are advisory only. This means that decisions, recommendations, or actions taken by these bodies are not binding on the Board or any County official or employee.
- The Advisory Working Group on Cannabis Regulation is charged with developing recommendations to guide County staff and decision-makers as they develop rules for commercial and personal-use cannabis. However, while neither the Board nor County staff is obligated to adhere to a recommendation, it is the County’s expectation that the working group’s recommendations will provide a framework for developing cannabis regulations for unincorporated County areas.
- Many commissions, task forces, and working groups formed by the County are also temporary, meaning that the commission, task force, or working group will no longer meet after a particular milestone has been reached or deliverable completed. The Advisory Working Group on Cannabis Regulation is temporary

and will meet eight times over a three-month period. The meeting calendar is set forth in **Section 5: Meeting Calendar and Topics**.

### **WHAT EFFECT WILL THE ADVISORY WORKING GROUP'S RECOMMENDATIONS HAVE ON CITIES?**

- Generally speaking, the County's jurisdiction over cannabis regulation extends to unincorporated County areas only, although some County programs, such as public health and drug prevention programs, extend countywide. There are approximately 140 unincorporated communities in the County. Examples of some unincorporated communities include East Los Angeles in the First District, Florence-Firestone in the Second District, Topanga Canyon in the Third District, Hacienda Heights in the Fourth District, and Altadena in the Fifth District. In terms of area, more than 65 percent of Los Angeles County is unincorporated (approximately 2,630 square miles). Approximately 10 percent of the County's population, or approximately one million residents, live in unincorporated areas. If the unincorporated County were a city, it would be the fourth largest city in California by population.
- While recommendations developed by the working group will be used primarily to develop rules for unincorporated County areas, it is anticipated that the working group's recommendations will be helpful to cities and other counties as they consider implementing their own cannabis regulations.

### **WHAT ELSE IS THE COUNTY DOING TO DEVELOP CANNABIS REGULATIONS?**

- In addition to the advisory working group meetings, the County will be hosting at least 18 listening sessions countywide for members of the public to provide comments and express concerns. A calendar for the listening sessions and a description of the format for and topics to be discussed at each session are included in **Section 6: Community Listening Sessions**.
- Working group members are expected to attend at least one listening session to observe the feedback provided by community members.

## **C. MECHANICS OF THE ADVISORY WORKING GROUP'S MEETINGS**

### **HOW WILL MEETINGS WORK?**

- Each working group meeting is intended to cover a set agenda. Proposed topics for each meeting, as well as a meeting calendar, are included in **Section 5: Meeting Calendar and Topics**.
- In general, meetings will be three hours long and will include the following components:

- Presentation: County staff or others will provide information to working group members to inform them about a particular topic or issue area.
  - Discussion: Members will have the opportunity to discuss particular issues with each other, ask questions, and workshop with County staff and other members, with the goal of fully informing themselves on the issue or topic and imparting their experience, knowledge, background, and concerns on a particular issue to other members.
  - Consensus on Recommendations: Following presentation and discussion, working group members will be prompted to reach consensus on a set of recommendations about the topics that were covered during the meeting. Facilitators from Community Partners will help guide the process.
- The working group process is intended to be dynamic, reactive, and fluid. For this reason, meetings may include additional components, including but not limited to break-out sessions, thought exercises, and multimedia engagement. Some of the meeting components identified above may be dropped or combined with other components. The meeting format may also evolve over time to suit the needs and styles of the working group members.

***WHAT DOES IT MEAN THAT WORKING GROUP MEMBERS WILL BE REQUIRED TO “REACH CONSENSUS” ON RECOMMENDATIONS?***

- All decisions of the working group will be consensus-based. A description of consensus-based decision-making is included in this packet in **Section 7: Consensus-Based Decision-Making**.

***WILL MEETINGS FOLLOW PARLIAMENTARY PROCEDURE?***

- No. Meetings will be structured informally to encourage open dialogue. The working group will not make decisions by formal motion or vote.
- In addition, no chair or vice chair of the working group will be selected. Instead, discussions will be guided by professional facilitators and County staff.

***WILL MEMBERS OF THE PUBLIC BE ABLE TO ATTEND WORKING GROUP MEETINGS?***

- Yes. Members of the public, including media, will be permitted to observe working group meetings. Members of the public will also be invited to provide written feedback during the meetings for consideration by the working group at the appropriate time.
- Because meetings are informally structured and designed to build consensus among working group members, the public will not have an opportunity to

address the working group or workshop with members on any issue. Working group members are free to talk to members of the public before and after each meeting.

- This does not mean that members of the public will not have an opportunity to share concerns and comments with the County. Concurrently with the working group’s meetings, the County will be hosting at least 18 listening sessions throughout all areas of the County as described in **Section 6: Community Listening Sessions**.

## **D. EXPECTATIONS FOR THE ADVISORY WORKING GROUP AND ITS MEMBERS**

### ***WHAT ARE THE GROUND RULES FOR PARTICIPATING IN THE WORKING GROUP?***

- Each working group members is expected to adhere to a specific set of ground rules while participating in the working group. These rules are designed to ensure that the working group process is a success. Ground rules are described in **Section 8: Principles of Participation**.

### ***WHAT DOES IT MEAN FOR THE WORKING GROUP PROCESS TO BE A “SUCCESS”?***

- At the conclusion of its meetings, the working group is expected to approve a report containing recommendations which can be used by County policy-makers as a framework for developing regulations for commercial and personal-use cannabis in unincorporated County areas.
- “Success” does not mean that the working group will have solved every issue related to cannabis regulation. This is unrealistic. Instead, working group members should focus on producing meaningful and implementable guidance for County staff and decision-makers.

### ***HOW WILL THE ADVISORY WORKING GROUP KNOW WHETHER A RECOMMENDATION IS “MEANINGFUL AND IMPLEMENTABLE”?***

- County staff from the OCM and other County departments will be present at each working group meeting to provide feedback on existing County rules and processes, answer questions, workshop with members, and discuss potential recommendations.
- County staff’s role at each working group meeting will be to help working group members understand how their recommendations can be most effective, given existing County policies, constraints, and legal limitations.

- Only working group members will be responsible for the ultimate recommendations of the group. While County staff will be present to assist working group members, staff will not approve, disapprove, or otherwise alter the working group's recommendations.

### **ARE THERE PARTICULAR OBJECTIVES THAT WILL GUIDE THE WORKING GROUP'S EFFORTS?**

- Yes. Objectives are set forth in **Section 9: Objectives**. Objectives represent those policy outcomes which the Board wishes to achieve with respect to cannabis regulation. Each recommendation offered by the working group or any of its members **must meet at least one of the objectives**.
- Although objectives are set forth in **Section 9: Objectives**, the OCM recognizes that each working group member brings a unique expertise and perspective to the table, and that the working group may have additional thoughts about objectives to guide its efforts. Therefore, the working group will be asked during its first meeting to decide whether additional objectives should be added.

### **WILL WORKING GROUP MEMBERS BE PAID?**

- No. Participation on the working group is on a volunteer basis.

### **WHAT HAPPENS IF A WORKING GROUP MEMBER MUST BE ABSENT FROM A MEETING?**

- Although working group members are volunteers, the consensus-based process for developing recommendations will only work if members are committed to their participation on the working group. For this reason, working group members are expected to attend all meetings.
- If a working group member must be absent from a meeting, the member will not be able to participate in the workshop discussion and the development of recommendations regarding the topics addressed at that particular meeting. However, County staff will work with absent members to obtain written comments about a particular topic in advance. Comments will be provided to the other working group members for their consideration during the meeting.
- Where possible, working group members should let County staff know in advance of planned absences from a working group meeting so that the start of a meeting is not delayed.

### **WHOM SHOULD WORKING GROUP MEMBERS CONTACT IF THEY HAVE QUESTIONS OR CONCERNS, OR NEED TO REPORT AN ABSENCE?**

- A list of contacts will be provided to working group members.

### ***ARE WORKING GROUP MEMBERS ALLOWED TO COMMUNICATE WITH EACH OTHER OUTSIDE OF WORKING GROUP MEETINGS?***

- Yes. There is no prohibition on working group members contacting each other outside of scheduled meetings. However, the integrity of the consensus-building process could be compromised by outside discussions regarding topic areas covered at working group meetings. For this reason, working group members are cautioned against having substantive discussions with other working group members about any topic that will be covered at a scheduled meeting.
- On occasion, County staff and facilitators may find it necessary to discuss a topic or issue with some working group members outside of a scheduled meeting. Such discussions may be necessary, for example, to help remove a barrier that is preventing the working group from reaching consensus on a particular topic.

### ***HOW SHOULD WORKING GROUP MEMBERS HANDLE INQUIRIES FROM THE MEDIA?***

- Working group members are free to speak to the media about their participation on the working group.
- In order to prevent comments to the media from inhibiting the goals of the working group, members are encouraged not to disparage other working group members or their viewpoints in their comments to the media; not to minimize or dismiss the work of other members or the working group itself; and not to use the media to influence other members on topics covered by the working group.

## SECTION 2:

# Background on Los Angeles County's Efforts to Regulate Cannabis

### **Section Contents**

- A. Background on Cannabis Legalization in California
- B. Los Angeles County's Approach to Cannabis Regulation before Proposition 64
- C. The County's Approach to Cannabis Regulation after Proposition 64
- D. Commercial Cannabis Businesses Remain Prohibited in Unincorporated County Areas Pending the Development of Regulations
- E. The County's Rules for Personal-Use Cultivation
- F. Additional Information and Resources

## **A. BACKGROUND ON CANNABIS LEGALIZATION IN CALIFORNIA**

In 1996, California voters approved Proposition 215 (Compassionate Use Act). Proposition 215 generally allows qualified patients with a valid doctor's recommendation to possess and cultivate cannabis for personal medical use. Subsequent laws established a medical cannabis ID card program and authorized the formation of collectives and cooperatives to provide medical cannabis to qualified patients.

In 2015 and 2016, the California Legislature passed a series of bills collectively called the Medical Cannabis Regulation and Safety Act (MCRSA). MCRSA established a framework for the cultivation, transportation, distribution, manufacturing, testing, and sale of medical cannabis.

In November 2016, California voters approved Proposition 64 (Adult Use of Marijuana Act), which legalized, among other things, the possession and use of cannabis by adults 21 years of age and older for nonmedical personal use. Proposition 64 also authorized the indoor or outdoor cultivation of up to six cannabis plants per residence for personal use by adults. In addition, Proposition 64 established a regulatory framework for the cultivation, distribution, manufacturing, testing, and sale of commercial nonmedical cannabis.

The State of California is scheduled to begin issuing commercial licenses for medical and nonmedical cannabis businesses beginning in January 2018. State agencies are currently preparing regulations that will govern the operation of cannabis businesses.

## **B. LOS ANGELES COUNTY'S APPROACH TO CANNABIS REGULATION BEFORE PROPOSITION 64**

In 2006, Los Angeles County (County) adopted an ordinance allowing medical cannabis dispensaries, subject to certain rules, including the issuance of a conditional use permit. However, no medical cannabis dispensary was ever permitted under this ordinance to operate in unincorporated County.

In 2010, the County adopted an ordinance prohibiting medical cannabis dispensaries. In 2016, the County adopted a temporary urgency ordinance to prohibit all other types of commercial medical cannabis activities.

## **C. THE COUNTY'S APPROACH TO CANNABIS REGULATION AFTER PROPOSITION 64**

Following the passage of Proposition 64, the Board of Supervisors revisited its prohibition of cannabis businesses. On February 7, 2017, the Board of Supervisors adopted two motions (collectively referred to as the "Cannabis Motions") which directed the CEO's Office of Cannabis Management (OCM) to coordinate with County departments and other agencies to develop regulations for commercial cannabis in unincorporated areas and take other steps to prepare for the legalization of cannabis throughout the County.

Specifically, the Cannabis Motions directed the OCM to coordinate with departments to prepare ordinance amendments "to allow, license, and appropriately regulate and enforce the cultivation, transportation, distribution, processing, manufacturing, testing, retail sale, and delivery" of medical and nonmedical cannabis in unincorporated areas.

The Cannabis Motions required that such ordinance amendments consider, among other things, impacts to blight and the health and safety of County neighborhoods, equitable development principles, environmental impacts from cannabis cultivation and sustainability measures, overconcentration of and excessive exposure to cannabis businesses and advertising, safety and security issues, maximizing the transition from unlicensed business activity to a regulated marketplace, benefits to communities disproportionately impacted by past enforcement of drug policies, and consumer protection and safety practices.

To inform the development of commercial cannabis regulations, the Cannabis Motions further directed the OCM to coordinate with departments to conduct "a series of multilingual and culturally competent town halls in each supervisorial district," include a diverse range of stakeholders at these meetings, and solicit meaningful feedback on regulations and best practices from stakeholder groups.

Further, and among other things, the Cannabis Motions:

- Directed the OCM to coordinate with departments to “[d]eploy a robust data collection program” to monitor the effect of cannabis legalization in the County;
- Directed the OCM to coordinate with departments to develop safety and educational protocols for County employees who will be directly involved in cannabis businesses;
- Directed the OCM to work with local cities to promote uniform regulations and best practices throughout the County; and
- Directed the County Department of Public Health to coordinate with the OCM and community groups, schools, and other stakeholders to develop education and prevention campaigns to deter young people from consuming cannabis and to educate all people about potential health effects from cannabis use.

Finally, the Cannabis Motions directed the County Department of Regional Planning to prepare an amendment to Title 22 of the County Code (Zoning Code) to extend the existing prohibition of medical and nonmedical commercial cannabis businesses pending the development of regulations, and to adopt reasonable regulations governing personal-use cannabis cultivation.

#### **D. COMMERCIAL CANNABIS BUSINESSES ARE STILL PROHIBITED IN UNINCORPORATED COUNTY AREAS PENDING THE DEVELOPMENT OF REGULATIONS**

On June 6, 2017, the Board of Supervisors adopted an amendment to the County Zoning Code which extended existing prohibitions on commercial cannabis activities in unincorporated County, including both medical and nonmedical cannabis activities. The amendment was adopted to maintain the status quo while regulations are being developed.

#### **E. THE COUNTY’S RULES FOR PERSONAL-USE CULTIVATION**

Also on June 6, 2017, the Board of Supervisors adopted an amendment to the County Zoning Code to place reasonable regulations on the home cultivation of cannabis plants by adults for personal use.

General regulations on personal-use cultivation include:

- Plants are limited to six per dwelling unit/residence;
- Cultivation areas must be secured; and
- Plants cannot be visible from any public right-of-way.

Outdoor personal-use cultivation is subject to additional regulations:

- Outdoor cultivation is only permitted at single-family residences;
- No outdoor cultivation is permitted within 600 feet of a library, park, school, day care center, or youth center;
- Outdoor cultivation is not permitted within a front yard, or within 10 feet of any property line;
- Cultivation areas must be surrounded by an opaque fence or wall at least six feet high, and plants may not exceed six feet in height.

## **F. ADDITIONAL INFORMATION AND RESOURCES**

- Ballotpedia summary of Proposition 215:  
[https://ballotpedia.org/California\\_Proposition\\_215,\\_the\\_Medical\\_Marijuana\\_Initiative\\_\(1996\)](https://ballotpedia.org/California_Proposition_215,_the_Medical_Marijuana_Initiative_(1996))
- Summary of MCRSA from the California Bureau of Medical Cannabis Regulation:  
[http://www.bmcr.ca.gov/laws\\_regs/index.shtml](http://www.bmcr.ca.gov/laws_regs/index.shtml)
- Ballotpedia summary of Proposition 64:  
[https://ballotpedia.org/California\\_Proposition\\_64,\\_Marijuana\\_Legalization\\_\(2016\)](https://ballotpedia.org/California_Proposition_64,_Marijuana_Legalization_(2016))
- Board of Supervisors' Cannabis Motions:  
<http://file.lacounty.gov/SDSInter/bos/supdocs/111354.pdf>  
<http://file.lacounty.gov/SDSInter/bos/supdocs/111332.pdf>  
<http://file.lacounty.gov/SDSInter/bos/supdocs/111535.pdf>
- Zoning Code Amendment extending the prohibition on commercial cannabis businesses and adopting regulations for personal-use cultivation:  
<http://file.lacounty.gov/SDSInter/bos/supdocs/114728.pdf>

## SECTION 3:

# Federal, State, and Local Law Concerning Cannabis

This section is intended to provide an overview of federal, state, and local laws concerning cannabis. This section does not delve in depth into any one topic area. A closer examination of specific legal issues and concerns will be provided for future meetings of the Advisory Working Group on Cannabis Regulation.

### **Section Contents**

- A. The Status of Cannabis under Federal Law
- B. California Laws Governing Medical and Nonmedical (Adult-Use) Cannabis
- C. Local Authority to Regulate Cannabis

## **A. THE STATUS OF CANNABIS UNDER FEDERAL LAW**

### **The Cultivation, Possession, Use, and Sale of Cannabis Is Illegal Under Federal Law**

Cannabis is classified as a Schedule I drug under the federal Controlled Substances Act (CSA). Schedule I drugs, substances, or chemicals are defined as drugs with no currently accepted medical use, a high potential for abuse, and no safe dose. Examples of Schedule I drugs including heroin, LSD, cannabis, ecstasy, and peyote.

As a Schedule I drug, the CSA makes it illegal for a person to manufacture, distribute, or possess cannabis for any reason, even if the cultivation, possession, use, or sale would not violate state law. For this reason, a person operating a cannabis business in compliance with state and local laws could still face prosecution under federal law.

Relatively recently, however, federal enforcement of the CSA against cannabis businesses operating in compliance with state law has generally been designated a low priority for federal enforcement agencies. The reasons for this are explained below.

### **The “Cole Memorandum”**

In response to the legalization of cannabis under some states’ laws, on August 29, 2013, the U.S. Department of Justice issued guidance regarding cannabis enforcement to federal prosecutors.<sup>1</sup> This guidance became known as the “Cole Memorandum,” after

<sup>1</sup> <https://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf>

its author, Deputy Attorney General James M. Cole. The Cole Memorandum represented a significant shift of government priorities away from strict enforcement of federal cannabis prohibition and toward a more hands-off approach.

The Cole Memorandum instructed federal prosecutors and law enforcement to focus on the following eight priorities in enforcing the CSA against cannabis-related conduct:

- Preventing the distribution of cannabis to minors;
- Preventing revenue from the sale of cannabis from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of cannabis from states where it is legal under state law to states where cannabis is illegal;
- Preventing state-authorized cannabis activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
- Preventing violence and the use of firearms in the cultivation and distribution of cannabis;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with cannabis use;
- Preventing the growing of cannabis on public lands; and
- Preventing cannabis possession or use on federal property.

The Cole Memorandum concluded that state regulatory schemes, if appropriately designed, could achieve the above priorities, indicating the federal enforcement is unnecessary where state regulatory programs achieve those priorities.

The Cole Memorandum arguably paved the way for the expansion of the medical cannabis industry and the legalization of commercial nonmedical cannabis activity in some states.<sup>2</sup>

It is important to note that the Cole Memorandum represents **existing** Department of Justice priorities in the enforcement of the CSA. Those priorities could change, and federal prosecutors could once again strictly enforce CSA prohibitions against cannabis. Such enforcement could disrupt cannabis industries in states where some form of cannabis is legal.<sup>3</sup>

### Rohrabacher-Farr Amendment

In 2015, Congress passed the Rohrabacher-Farr amendment (Rohrabacher-Farr), named for the amendment's primary sponsors, Representatives Dana Rohrabacher and Sam Farr, as part of the Consolidated Appropriations Act of 2015. Rohrabacher-Farr

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<sup>2</sup> Schroyer, John, "The famous marijuana memos: Q&A with former DOJ Deputy Attorney General James Cole," *Marijuana Business Daily*, July 27, 2016 (<https://mjbizdaily.com/the-famous-marijuana-memos-qa-with-former-doj-deputy-attorney-general-james-cole/>).

<sup>3</sup> Hiltzik, Michael, "The murkiness of marijuana law is becoming a flashpoint in U.S.-California relations," *Los Angeles Times*, March 3, 2017 (<http://www.latimes.com/business/hiltzik/la-fi-hiltzik-pot-20170302-story.html>).

essentially prohibits the Justice Department from expending any funds to interfere with states that have implemented medical cannabis laws:

None of the funds made available in this Act to the Department of Justice may be used, with respect to any of the States of Alabama, Alaska, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Oregon, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, Wisconsin, and Wyoming, or with respect to the District of Columbia, Guam, or Puerto Rico, to prevent any of them from implementing their own laws that authorize the use, distribution, possession, or cultivation of medical marijuana.<sup>4</sup>

Congress renewed Rohrabacher-Farr in subsequent spending bills, and extended its prohibitions through September 30, 2017, when it approved the Consolidated Appropriations Act of 2017.<sup>5</sup> However, in a signing statement for the Act, President Trump referred specifically to Rohrabacher-Farr and stated he “will treat this provision consistently with my constitutional responsibility to take care that the laws be faithfully executed.”<sup>6</sup> Recently, Attorney General Jeff Sessions asked Congress not to extend Rohrabacher-Farr. These statements by the President and the Attorney General raise questions about whether the administration will increase enforcement against medical cannabis businesses operating in compliance with their state’s laws.<sup>7</sup>

Rohrabacher-Farr does not provide any protection for nonmedical cannabis businesses.

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<sup>4</sup> Consolidated Appropriations Act of 2015, Pub. L. No. 113-235, § 538 (2015).

<sup>5</sup> Consolidated Appropriations Act of 2017, Pub. L. No. 115-31, § 537 (2017).

<sup>6</sup> Statement by President Donald J. Trump on Signing H.R. 244 into Law, May 5, 2017 (<https://www.whitehouse.gov/the-press-office/2017/05/05/statement-president-donald-j-trump-signing-hr-244-law>).

<sup>7</sup> Ingraham, Christopher, “Jeff Sessions personally asked Congress to let him prosecute medical-marijuana providers,” *The Washington Post*, June 13, 2017 ([https://www.washingtonpost.com/news/wonk/wp/2017/06/13/jeff-sessions-personally-asked-congress-to-let-him-prosecute-medical-marijuana-providers/?utm\\_term=.931cac8b5243](https://www.washingtonpost.com/news/wonk/wp/2017/06/13/jeff-sessions-personally-asked-congress-to-let-him-prosecute-medical-marijuana-providers/?utm_term=.931cac8b5243)).

## **B. CALIFORNIA LAWS GOVERNING MEDICAL AND NONMEDICAL CANNABIS**

### **Background**

On November 8, 2016, California voters approved Proposition 64, the Adult Use of Marijuana Act (AUMA). Generally, AUMA makes it legal for adults aged 21 and over to grow, possess, and use nonmedical cannabis. AUMA also allows licensed businesses to grow, distribute, and sell nonmedical cannabis.

AUMA became effective immediately on November 9, 2016. However, the State will not issue licenses for commercial nonmedical cannabis businesses until January 1, 2018.

In addition to AUMA, in 2015 and 2016, the California Legislature approved a package of bills to regulate medical cannabis. This package of bills is referred to as the Medical Cannabis Regulation and Safety Act (MCRSA). MCRSA established the first regulatory framework for the medical cannabis industry. MCRSA provides for licenses to be issued by three state licensing authorities: the Bureau of Medical Cannabis Regulation, the California Department of Food and Agriculture, and the California Department of Public Health. The licensing authorities are responsible for and are currently developing the regulations and rules regarding State licensing under the new laws.

### **Key Provisions of AUMA**

Key provisions of AUMA include the following:

- AUMA decriminalizes the possession, transport, and personal use by adults of up to one ounce of dry cannabis and up to eight grams of cannabis concentrates, such as hash or butane honey oil (BHO).
- AUMA allows adults to grow up to six cannabis plants for nonmedical purposes in a private residence or on the grounds of a private residence, provided the plants are out of public view and in a secured location.
- AUMA allows businesses to cultivate, distribute, process/manufacture, and sell nonmedical cannabis for commercial purposes, provided the businesses are first licensed by State authorities and by the city or county in which the business operates.
- The State Departments of Consumer Affairs, Public Health, and Food and Agriculture are responsible for the regulation and licensing of cannabis businesses. These entities will begin issuing licenses to cannabis businesses on January 1, 2018.
- The Bureau of Marijuana Control (known as the Bureau of Medical Cannabis Regulation under MCRSA), within the State Department of Consumer Affairs, is

responsible for coordinating the activities of State agencies with respect to cannabis regulation, licensing, and enforcement.

AUMA allows local governments to control nonmedical cannabis within their jurisdictions. Specifically:

- While AUMA prevents local governments from banning personal cultivation of nonmedical cannabis by adults, local governments may “reasonably regulate” such personal cultivation, including by requiring that all cultivation take place indoors.
- AUMA preserves the right of local governments to ban commercial nonmedical cannabis activity within their jurisdictions.
- Alternatively, AUMA allows local governments to regulate commercial cannabis activities within their boundaries, including by adopting local zoning and land use requirements, business license requirements, and standards for environmental protection, testing, security, safety of cannabis products, and worker protection.

With respect to taxation:

- AUMA provides for a 15 percent State excise tax on all retail sales of medical and nonmedical cannabis, and a State cultivation tax of \$9.25 per ounce of dry cannabis flowers and \$2.75 per ounce of dry cannabis leaves. These taxes are in addition to other applicable State and local sales and use taxes. However, under AUMA, sales of medical cannabis and medical cannabis products are exempt from State sales and use taxes. Nonmedical cannabis and nonmedical cannabis products, however, are still subject to sales and use taxes imposed by local governments.
- State tax revenue will be used to cover the State’s costs to administer and enforce cannabis regulation. Then:
  - \$2 million per year to the University of California at San Diego Center for Medical Cannabis Research to study medical cannabis;
  - \$10 million per year for 11 years for public California universities to research and evaluate new nonmedical cannabis laws;
  - \$3 million per year for five years to the California Highway Patrol to establish and adopt protocols to detect impaired driving; and
  - \$10 million per year, increasing each year by \$10 million reaching \$50 million in 2022, for grants to local health departments and community-based nonprofits supporting "job placement, mental health treatment, substance use disorder treatment, system navigation services, legal

services to address barriers to reentry, and linkages to medical care for communities disproportionately affected by past federal and state drug policies."

- Remaining revenues would be distributed as follows:
  - 60 percent to youth programs, including drug education, prevention, and treatment;
  - 20 percent to prevent and alleviate environmental damage from illegal marijuana producers; and
  - 20 percent to programs designed to reduce driving under the influence of cannabis and a grant program designed to reduce negative impacts on health or safety resulting from AUMA.
- Local governments are eligible to receive grants through programs funded by State tax revenue. If local governments ban cannabis businesses or outdoor cultivation for personal use, they will be ineligible to receive some grants.
- In addition to State taxes, AUMA allows local governments to tax cannabis businesses, provided that such tax is not a sales tax.

Finally, AUMA reduces criminal penalties for illegal cannabis possession and cultivation. Under AUMA, a person with a prior cannabis-related conviction may petition the court to change his or her criminal record, or to reduce his or her sentence.

### **Key Provisions of MCRSA**

Key provisions of MCRSA include the following:

- Under MCRSA, all commercial medical cannabis activity requires both a state license and local approval through a license, permit, or other authorization. All businesses must have local approval prior to applying for state licensure.
- A qualified patient who cultivates, possesses, processes, or transports medical cannabis exclusively for his or her personal medical use is not required to get a license. Primary caregivers who provide care to five or fewer medical cannabis patients are also not required to be licensed if they are compliant with MCRSA.
- All medical cannabis and medical cannabis products will be tracked through the product's life cycle, from the original plant to the final retail site. MCRSA charges the State Department of Food and Agriculture with the responsibility of implementing a track and trace program for the State.
- MCRSA phases out the collective or cooperative model.

MCRSA establishes a grant program to help local agencies enforce State and local laws upon full implementation of MCRSA.

### **Senate Bill 94 (2017) (Cannabis: Medicinal and Adult Use)**

As of this writing, Senate Bill (SB) 94 has been approved by the California Senate and Assembly and has been submitted for signature to Governor Jerry Brown.<sup>8</sup> SB 94 seeks to combine AUMA and MCRSA into a single regulatory program that would cover both medical and nonmedical cannabis. The consolidated program would be known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).

## **C. LOCAL AUTHORITY TO REGULATE CANNABIS**

With respect to commercial cannabis, both MCRSA and AUMA preserve the authority of cities and counties to prohibit or allow and regulate commercial cannabis businesses and activity. However, both MCRSA and AUMA prevent cities and counties from banning the transportation of marijuana through their jurisdictions on public roads.

With respect to cultivation for personal use, AUMA allows cities and counties to enact “reasonable regulations” on personal-use cultivation, including prohibiting outdoor cultivation. However, cities and counties cannot prohibit indoor cultivation for personal use. Under MCRSA, cities and counties can prohibit cultivation for personal medical use.

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<sup>8</sup> [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201720180SB94](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB94)

## SECTION 4:

# Working Group Roster

### ***First District Representatives***

Hon. Vivian Romero  
Mayor, City of Montebello

Manuel Duran  
President, Maravilla Businesspersons Association

### ***Second Supervisorial District Representatives***

Dr. Avelardo Valdez  
Professor, Suzanne Dworak-Peck School of Social Work  
University of Southern California

Patricia Guerra  
Justice Policy Coordinator, Community Coalition

### ***Third Supervisorial District Representatives***

Beth Burnam  
Board of Directors, Resource Conservation District  
of the Santa Monica Mountains

Aaron Lachant, Esq.  
Nelson Hardiman, LLP

### ***Fourth District Representatives***

Melahat Rafiei  
Owner, Progressive Solutions Consulting

Matt Garland  
Councilmember, San Pedro Neighborhood Council

### ***Fifth District Representative***

Wayne Sugita  
Interim Director (Ret.), Division of Substance Abuse, Prevention, and Control  
Los Angeles County Department of Public Health

*Selection of a second representative is pending*

## ***At-Large Members***

Lynne Lyman  
California State Director, Drug Policy Alliance

Donnie Anderson  
Chairman, California Minority Alliance  
Co-Founder, Southern California Coalition

Jonatan Cvetko  
Founder, Angeles Emeralds

Dr. Alisa Padon  
Co-Director, Getting it Right from the Start Program  
Public Health Institute

Javier Montes  
Vice President, UCBA Trade Association

Dr. Monica Sanchez  
Prevention Director, Friday Night Live and  
Comprehensive Prevention Services Program  
Los Angeles County Office of Education

Valerie Coachman-Moore  
President and CEO, Coachman-Moore & Associates, Inc.

Dr. Rachel Castaneda  
Associate Professor, Dept. of Psychology  
School of Behavioral and Applied Sciences  
Azusa Pacific University

## SECTION 5:

# Meeting Calendar and Topics

The Advisory Working Group on Cannabis Regulation will meet eight times beginning in June 2017 and ending in August 2017. While each meeting will cover a discrete topic area, many topics are interrelated or intertwined. The schedule below takes into account the fact that the discussion of topics scheduled for later meetings is likely to benefit from discussions at earlier meetings, leading to a fuller understanding of concepts and issues slated for later meetings.

June 29, 2017	<b>Meeting 1:</b> Kickoff and orientation
July 20, 2017	<b>Meeting 2:</b> Youth access and exposure
July 27, 2017	<b>Meeting 3:</b> Public health and safety, and personal cultivation
Aug. 3, 2017	<b>Meeting 4:</b> Retailers
Aug. 10, 2017	<b>Meeting 5:</b> Cultivators, manufacturers, and other businesses
Aug. 17, 2017	<b>Meeting 6:</b> Compliance and taxation
Aug. 24, 2017	<b>Meeting 7:</b> Licensing, equity, and economic development
Aug. 31, 2017	<b>Meeting 8:</b> Consideration and approval of final recommendations

### Discussion Questions

1. What issues related to cannabis legalization interest you most? How do those issues or topics fit into the schedule above?
2. Are there topics you wish to discuss which are not specifically identified in the schedule above?
3. Which aspects of cannabis legalization are the least important for you? If you had to prioritize topics, how would you do so?

## SECTION 6:

# Community Listening Sessions

The Office of Cannabis Management will be hosting 18 community listening sessions throughout Los Angeles County between July 10, 2017, and August 12, 2017.

The purpose of the listening sessions is to obtain and document the concerns and desires of community members regarding cannabis legalization and regulation in their communities.

In order to maximize community participation and feedback, listening sessions will be in a roundtable discussion format. Six tables or stations will be set up at each meeting that correspond with the following topics:

- Rules for retailers, cultivators, manufacturers, and other businesses
- Equity in licensing and placement of retail locations
- Public health and safety
- Youth access and exposure
- Personal cultivation
- Taxation and revenue use

Community members will spend up to 20 minutes at a time at a table discussing a particular topic. Discussions will be guided by a professional facilitator. County staff will be available to respond to questions. Translation services will be provided.

A report documenting community concerns shared at the listening sessions will be prepared and submitted to the Board of Supervisors for its consideration.

**Working group members are expected to attend at least one community listening session.**

### Discussion Questions

1. If you were designing regulations for cannabis, what type of feedback would you want to hear from community members?
2. Which topics are the most important for community members to weigh in on and discuss? Which topics are the least important?
3. What is the most important thing that you would want community members to take away from listening sessions? How would you ensure that happens?

## SECTION 7:

# Consensus-Based Decision-Making

Consensus decision making is a process used by groups seeking to generate widespread levels of participation and agreement. There are variations among different groups regarding the degree of agreement necessary to finalize a group decision. The process of group deliberation, however, has many common elements that are definitive of consensus decision making. These include:

**Inclusive:** As many stakeholders as possible are involved in group discussions.

**Participatory:** All participants are allowed a chance to contribute to the discussion.

**Collaborative:** The group constructs proposals with input from all interested group members. Any individual authorship of a proposal is subsumed as the group modifies it to include the concerns of all group members.

**Agreement Seeking:** The goal is to generate as much agreement as possible. Regardless of how much agreement is required to finalize a decision, a group using a consensus process makes a concerted attempt to reach full agreement.

**Cooperative:** Consensus participants are encouraged to keep the good of the whole group in mind. Each individual's preferences should be voiced so that the group can incorporate all concerns into an emerging consensus proposal. Individual preferences should not impede the progress of the group.

Consensus decision making is an alternative to commonly practiced non-collaborative decision making processes. Robert's Rule of Order, for instance, is a process used by many organizations. The goal of Robert's Rules is to structure the debate and passage of proposals that win approval through majority vote. This process does not emphasize the goal of full agreement (as consensus does). Nor does it foster whole group collaboration and the inclusion of minority concerns in resulting proposals.

Consensus decision making is also an alternative to "top-down" decision making, commonly practiced in hierarchical groups. Top-down decision making occurs when leaders of a group make decisions in a way that does not include the participation of all interested stakeholders. The leaders may (or may not) gather input, but they do not open the deliberation process to the whole group. Proposals are not collaboratively developed, and consensus is not a primary objective.

Visit <http://www.consensusdecisionmaking.org/> to learn more. © Tim Hartnett, PhD

## SECTION 8:

# Principles of Participation

### Expectations

1. Meetings will begin and end on time.
2. Working group members will read distributed materials before each meeting.
3. Working group members will work efficiently with the goal of effectively discussing every issue.
4. All statements, documents, and written communications are considered public record.
5. Working group members will treat each other respectfully.
6. Working group members will not unduly interrupt each other.
7. Working group members will make best efforts to reach consensus on recommendations at each meeting.
8. Without setting aside their experience, perspectives, and beliefs, working group members will act in the interest of the County and its constituents and not for personal gain.
9. Working group members will attend at least one community listening session.

### Guiding Principles for Making Recommendations

Working group members must maintain these principles when considering recommendations:

1. Recommendations must be consistent with the policies of the Board of Supervisors, as identified in its cannabis motions dated February 7, 2017.
2. Recommendations must be consistent with state law and regulations.
3. Compliance with regulations must be achievable, repeatable, and defensible.
4. The County must be able to enforce compliance with regulations.
5. Monitoring for compliance with regulations must be achievable, repeatable, and not overly burdensome or intrusive.

## SECTION 9:

# Objectives

The following objectives are intended to guide the Advisory Working Group on Cannabis Regulation as it develops recommendations. Working group members will be asked to demonstrate how each recommendation achieves one or more of the stated objectives.

1. Prevent the underage use of cannabis.
2. Prevent adult use disorders associated with cannabis, and the abuse of cannabis by adults.
3. Promote beneficial and equitable health outcomes.
4. Prevent the unlawful production, distribution, and sale of cannabis.
5. Protect the peace, comfort, and safety of County neighborhoods.
6. Promote compatibility with existing neighborhoods.
7. Prevent any one community or communities from unduly shouldering the burdens of cannabis legalization.
8. Promote positive benefits for communities, especially those disproportionately impacted by historical drug enforcement policies.
9. Pursue equity in licensing and cannabis business ownership.
10. Protect the environment.
11. Maximize the transition from an unlicensed and unregulated cannabis marketplace to a licensed and compliant cannabis marketplace.
12. Allow reasonable economic growth for the cannabis industry.

### **Discussion Questions**

1. What is the best possible outcome for regulated cannabis in the County? Are additional objectives needed to promote this outcome?
2. What is the worst outcome? Are additional objectives needed to avoid this outcome?
3. What objectives are you most concerned about? Which are you least concerned about?
4. Are some objectives mutually exclusive? Why?