ACT 230 WORKING GROUP RECOMMENDATIONS

April 12, 2017

Position

The working group should amend the draft report to the 2017 Legislature and include recommendations to:

- promote expansion of the program, and
- reject a delay in issuing new licenses by the Department of Health.

Analysis

Based on a thorough analysis of medical marijuana programs across the country, we encourage the Department to begin accepting applications for additional licenses as detailed in Chapter 329D to:

- provide sufficient and affordable access to patients;
- promote multiple product offerings and innovation;
- prepare for registry growth and reciprocity;
- encourage capitalization of the industry; and
- fund the Department of Health's oversight programs.

Patient Access, Pricing, and Product Innovation

All major cannabis/drug policy organizations including Marijuana Policy Project, Americans for Safe Access, Drug Policy Alliance, Patients Out of Time, NORML, and Students for Sensible Drug Policy encourage state distribution systems to license several businesses versus a handful of operators - primarily to increase geographical access, lower prices, and prevent supply interruptions due to business failures. The Hawai'i Dispensary Alliance ("HDA") also suggests that eight licensees are insufficient to meet projected demand and encourage market growth (2016 Industry Forecast, Hawai'i Dispensary Alliance). As displayed below, there is an inverse correlation between the number of producers (cultivators) operating and the prices borne by patients.

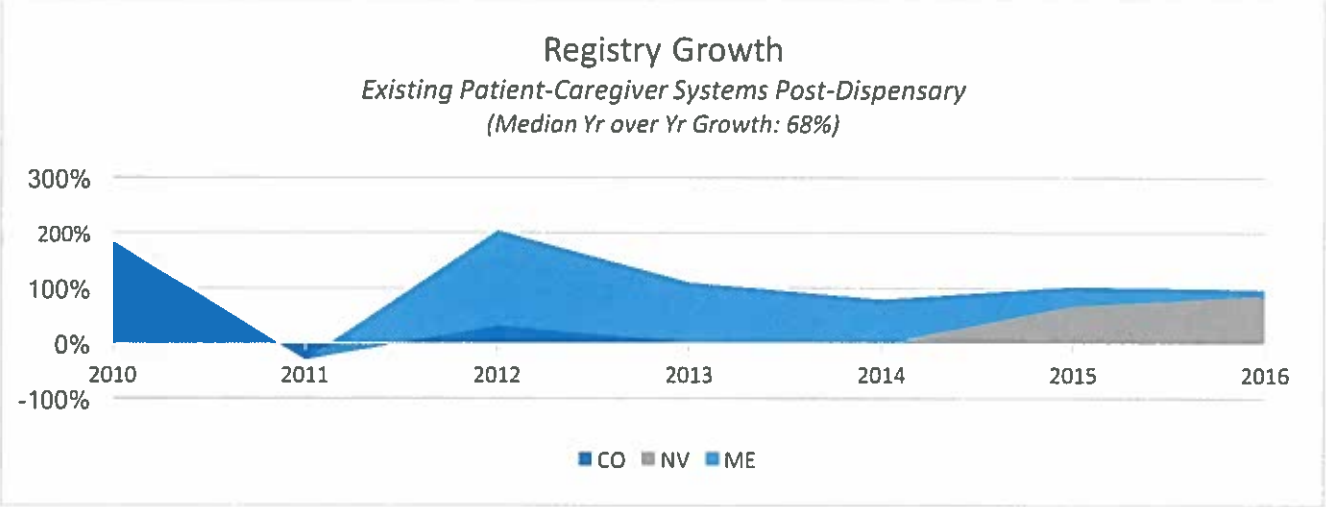
	AZ	NV	MA	DE	IL	RI	CT	VT	NJ
Est # of Producers Operating	100	120	25	3	17	3	4	4	6
Average Price per Ounce	$290	$300	$350	$360	$360	$365	$380	$380	$400

As in any industry, competition leads to increased product offerings and innovations. This is also true for medical cannabis markets. An increased number of licensees will inevitably lead to a larger number of product offerings and advancements. When research and development costs are spread across multiple licensees, more products will be brought to market. This is easily illustrated by a comparison of the products and delivery methods available

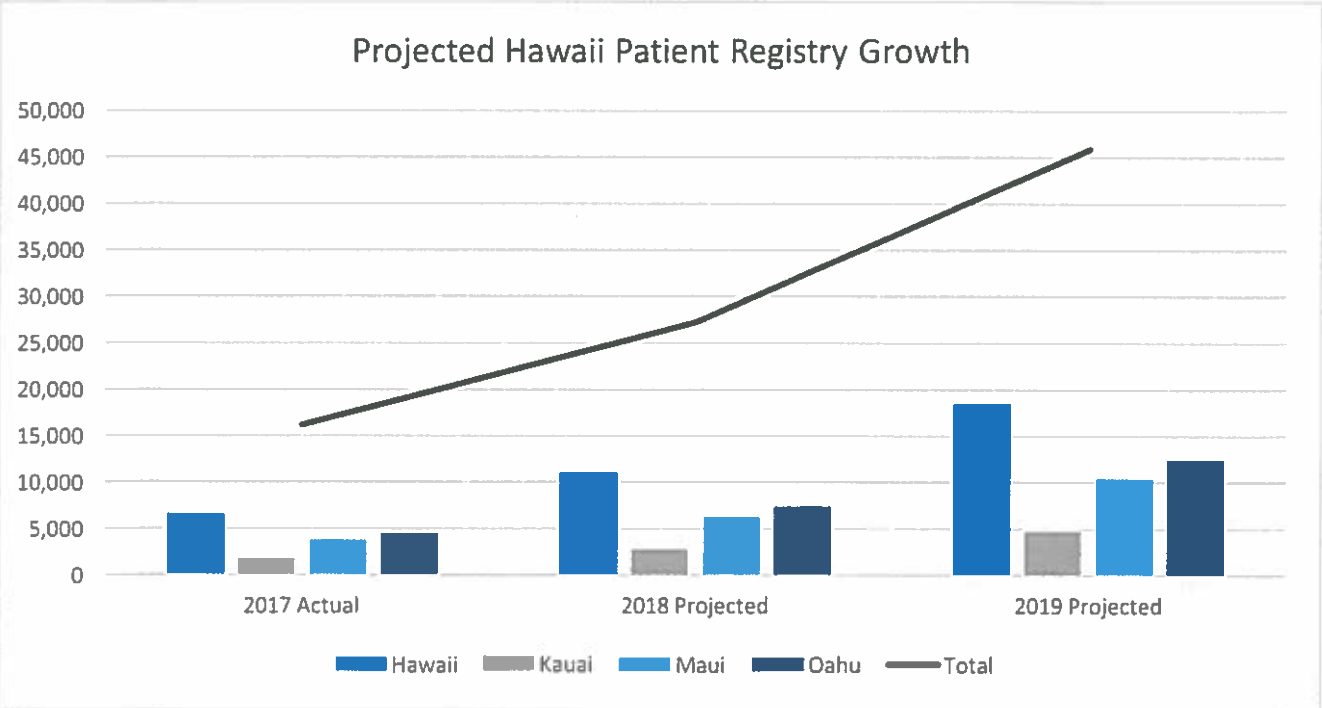
in limited license markets like Florida, Minnesota, or New York with the number of products and delivery methods available in markets with several licensees including Nevada and Arizona. Where there is limited competition, producers may only offer 5 – 10 product types/formulations compared to highly-competitive markets where dispensaries offer hundreds of product/formulation options.

Registry Growth and Reciprocity

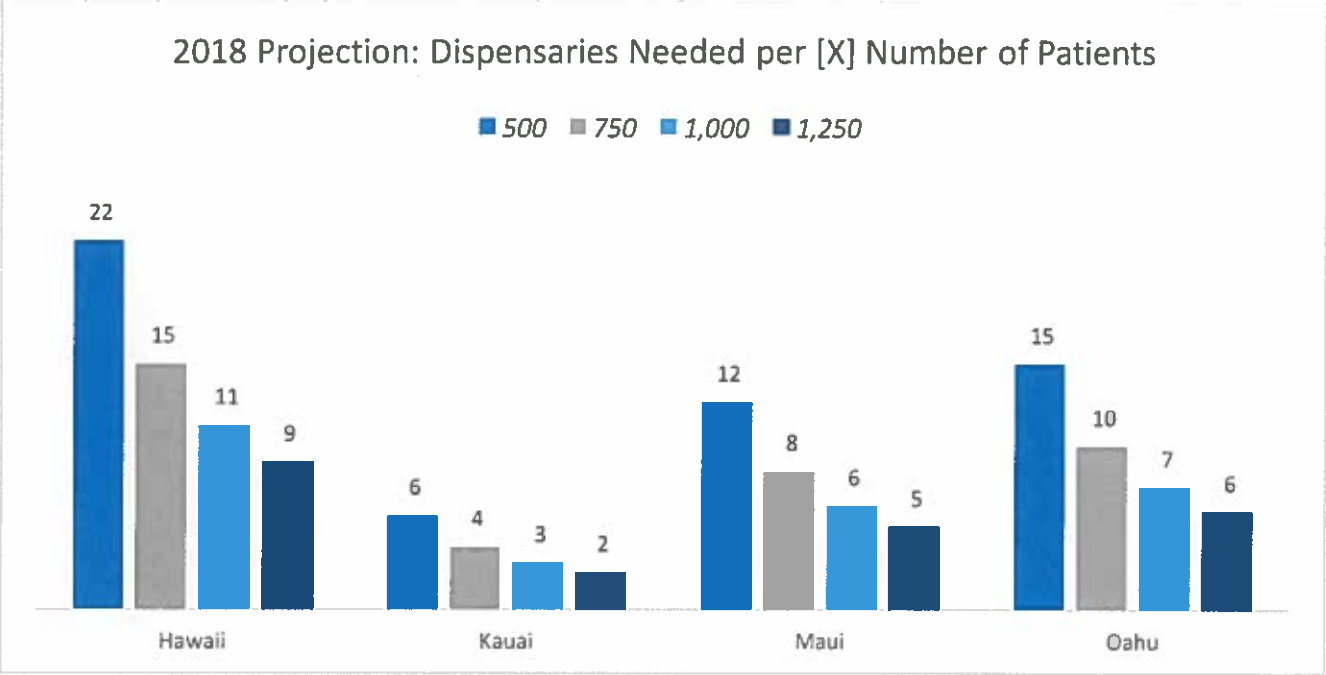
Based on a review of comparable medical marijuana systems (those with a caregiver and patient registry system in place prior to dispensaries) including Colorado (pre-recreational), Maine, and Nevada - Hawaii can expect to see rapid growth in patient registry numbers once dispensaries are open and serving patients. In these systems with existing patient-caregiver models, a median year-over-year growth rate of 68% occurred.



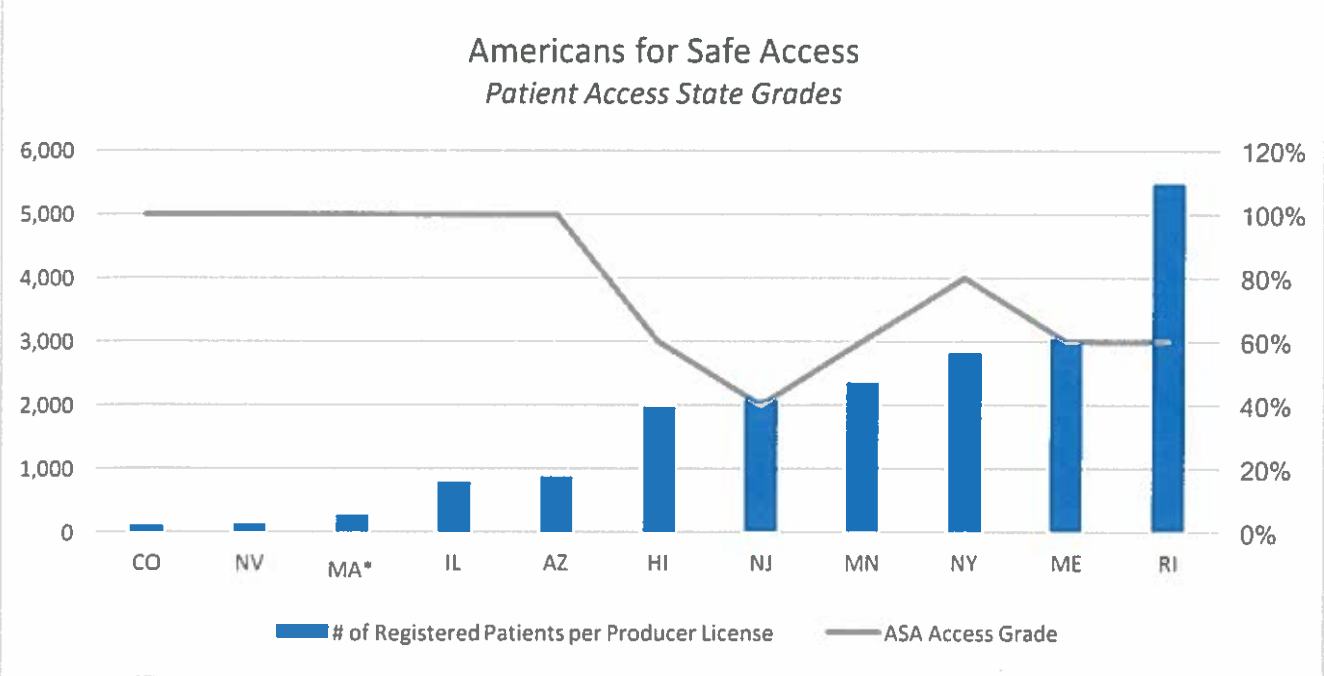
Our growth assumptions are slightly more conservative than those presented by other groups including the HDA. Applying our conservative 68% growth rate to Hawaii's patient registry (as of March 31, 2017), the following patient population rates are projected:



The projected number of licensees required in 2018 illustrated below does not include an estimate of demand resulting from patient reciprocity beginning in the same year. The demand from visitors from other states with qualified medical cannabis registrations could increase demand even further, providing additional support to the position that additional licensees are needed. For example, in Nevada, "out of state sales" accounted for up to 40% of gross sales from 2015 to 2016.[1]



Americans for Safe Access: Patient Access Grades



[1] http://www.eastbayexpress.com/LegalizationNation/archives/2016/0/01/las-vegas-now-a-bust-for-most-california-medical-pot-patients, August 1, 2016

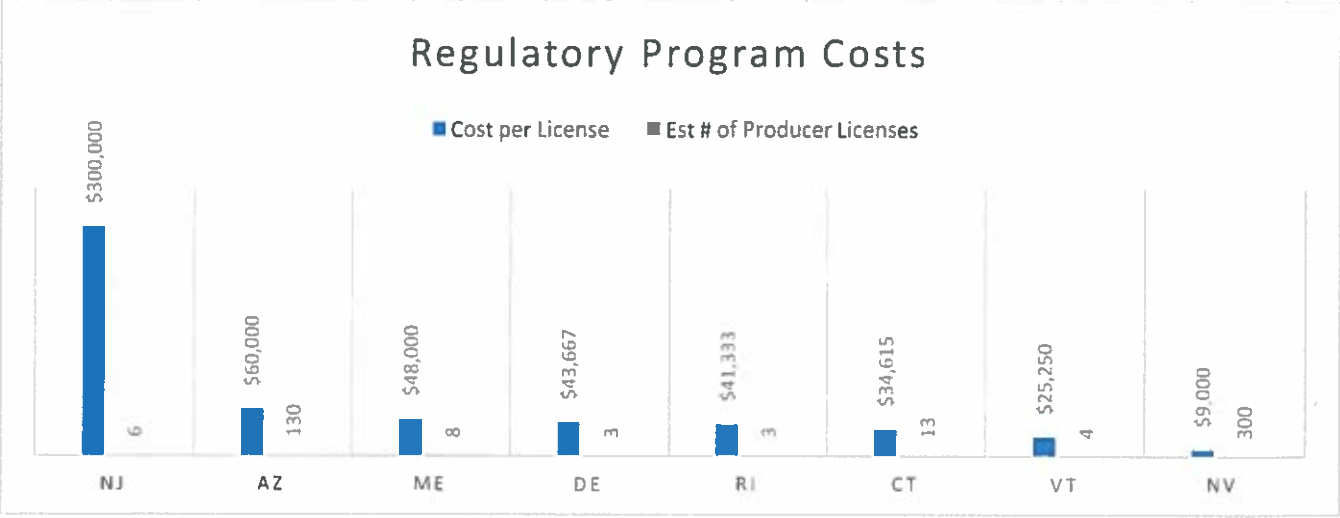
Americans for Safe Access provides annual rankings of state medical cannabis systems, grading for a variety of system aspects. The 2017 report published by the 50,000+ member national patient advocacy group generally favors systems with a greater number of licensed producers per patients registered. However, some unique system features result in outliers. For example, New York allows each producer to open five dispensaries which provides increased access. Currently, with eight licensed producers (approximately one per 1,964 registered patients), Hawaii was provided a grade for patient access of 60% [3 out of 5 possible points].

Capital Needed for Industry Growth

HDA has projected that 2018 dispensary revenue is likely to reach $80M with potential visitor revenue adding between $10M and $58M. This type of growth necessitates a great deal of investment for capital expenditures and working capital. Medical cannabis operations do not have access to standard credit facilities requiring them to raise large amounts of cash which is often difficult and detrimental to actual operations. States with limited licenses (New York and Florida) have already allowed licensees unable to raise needed capital to sell majority stakes in their companies. Hawaii's requirement for 51% Hawaiian ownership further restricts licensees' ability to raise capital. A greater number of licensees will expand investment in Hawaii's medical cannabis industry as they attract different investor groups and spread risk across multiple operations.

Cost of Regulation

Based on a review of the limited information published, there does not appear to be a direct correlation between the number of licenses issued by a state and the cost of program management. The Department of Health has successfully implemented the most challenging and costly component of the program, seed to sale tracking. As a result, the Department should be able to add additional licensees to the system for a minimal cost and time commitment.



Additionally, expanding the number of licensees will increase program revenues which are needed to meet the Department's budgetary requirements. HDA recently provided the following testimony on HB 1488: "*Finally, additional rounds of applicants/applications would translate into the resources needed to fund a sustainable and self-sufficient state regulatory program – unlike the currently underfunded program. Consider that a second round of applications as early as October 2017 could yield $115,000 at a minimum (23 applicants X $5,000 application fee, though this number will likely be much larger as the number of applicants will greatly exceed the number of available licenses), and $1,725,000 annually in licensing fees (23 licensees X $75,000 licensing fee). This is not to mention the benefits for the state's economy in general that would result from the creation of dozens of new, local*

businesses and their need to erect new buildings and hire hundreds of local workers. This is all potential funding that the Department and the State will not have access to if this bill passes [with the delay in tact]."

HB 1488 Department Position:
"The Department supports the delay in considering the award of additional licenses while the Department continues major work efforts to ensure the start-up of cultivation and sales by current licensees. The Department also supports the language in SD 1 to allow current licensees the ability to expand their operations by allowing for an increase in plant count, an increase in the number of production centers, and/or an increase in the number of retail locations based on the licensees' ability to service rural or geographically underserved areas. This could provide a quicker way of making medical marijuana available to underserved geographic locations, provide an improved return on investment (ROI) for current licensees, avoid for the Department the significant added burden of a license application and award process, and avoid the delays of new licensees getting to the market place."

Response: While Hawaii has experienced implementation delays that are common to many other new state programs, patient registrations have continued to increase and are expected to reach over 27,000 by the end of 2018. Combined with the increase in demand expected from out of state patients, the program can support expanded plant counts for existing licensees as well as the addition of new licensees. The acceptance of license applications in October 2017 would not result in significant production capacity from new licensees until 2019 and is necessary to ensure a steady and adequate supply for patients.

Other Considerations:
The Department also opposes adding new medical conditions through legislation. The Department also testified in opposition to SB 174, which seeks to add new conditions to the definition of debilitating medical conditions. The Department sites that it "already has a comprehensive annual process contained in Chapter 160, Hawaii Administrative Rules, to consider the addition or deletion of qualifying medical conditions for the medical use of marijuana. Physicians or potential medical marijuana patients may petition the Department for new conditions. This process ensures that the criteria for adding conditions are medical conditions for which the use of marijuana has been shown to be effective rather than just adding broad category conditions that may be viewed by the federal government as diluting the program' s medical intent."

Response: Conditions are rarely added by regulatory agencies. The standard required to prove "the use of marijuana has been shown to be effective" is extremely difficult for petitioners to meet. The National Academy of Sciences recently released a report, "The Health Effects of Cannabis and Cannabinoids: The Current State of Evidence and Recommendations for Research." The report states that there is conclusive evidence that marijuana can be used as a medicine. However, the report did not find clinical evidence for all conditions marijuana treatment is often associated with, but does recognize its efficacy for treating many medical conditions such as chronic pain in adults, chemotherapy-induced nausea and vomiting, and multiple sclerosis spasticity symptoms. The report exemplifies the roadblocks to cannabis medicine research and highlights the difficulty in presenting sufficient evidence. If the same standard were applied to the conditions currently allowed in Hawaii, most would be disallowed. As a result, we recommend the working group support and recommend the addition of new conditions to the 2017 Legislature to ensure access to cannabis medicine for all patients who may benefit from its use.

Resources
Statistics compiled for this testimony were sourced from the Marijuana Policy Project, Americans for Safe Access, pro-con.org, State registry websites, various news articles, the National Conference of State Legislatures, and the Hawai'i Dispensary Alliance 2016 Industry Forecast.

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About
Jill Lamoureux has been engaged by a past and prospective applicant to provide policy and application related advisory services. She is CEO of Pure O&M, a boutique cannabis consulting company and is a nationally recognized cannabis business expert in Colorado with extensive experience in cultivation, manufacturing and distribution. Jill was the only industry representative to serve on both the Colorado Department of Public Health and Environment and the Colorado Department of Revenue medical marijuana advisory committees. She also serves as a subject matter expert to BOTEC Analysis Corporation for Washington State and the Commonwealth of Jamaica. Jill regularly provides strategic consulting to public and private clients on a variety of issues from licensing, operations and regulations to finance and due diligence. She served as the second Chair of the National Cannabis Industry Association and currently serves as the Chair of the Patient Focus Certification Review Board for Americans for Safe Access and as a member of the ASTM and the American Herbal Products Association's Cannabis Committees. Jill also mentors at Canopy Boulder and Canopy San Diego and serves on multiple advisory boards businesses and trade associations.