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To: Medical Cannabis Policy Advisory Board
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Subject: **Capping the number of medical cannabis processor licenses**

Introduction

The board may consider the following options about making a recommendation for a statutory change placing a cap on the number of medical cannabis processor licenses.

1. Cap the number of medical cannabis processor licenses that the Utah Department of Agriculture and Food (UDAF) may issue.
2. Continue to allow an unlimited number of medical cannabis processor licenses (status quo).

Background

[Utah Code 4-41a-201](#) allows eligible applicants to submit a cannabis production establishment license application to the Utah Department of Agriculture and Food (UDAF). Under definition of cannabis production establishment license is cannabis cultivator facility and a cannabis processor facility. Cannabis cultivation facilities are capped at 8 licenses per [UCA 4-41a-205](#). Medical cannabis pharmacies are capped at 15 licenses per [UCA 4-41a-1005](#) unless UDAF decides to issue more licenses after conducting a market analysis and consulting with DHHS.

Some stakeholders have concerns about multi-state operator (MSO) cannabis businesses that often have greater access to capital than state-based businesses. With the board's recent action to recommend that processors be allowed to advertise and engage in targeted marketing, there is heightened concern about

new MSO-affiliated processors becoming licensed in Utah and taking over the Utah cannabis market.

Analysis

Arguments for a cap on cannabis processor licenses

- 1. Cannabis product supply is not an issue.** With 15 cannabis processors in the state today, some stakeholders argue that product supply appears to be reasonably strong. The [DHHS 2022 medical cannabis market analysis survey](#) reported that 61% of patients agreed that medical cannabis pharmacies in Utah consistently have the products they need, with 27% disagreeing.
- 2. Protect the existing marketplace.** Existing processors have invested in their operations to serve the state's medical cannabis patients. Independent processors that do not have a pharmacy license must survive in a challenging economic landscape where capital is difficult to acquire. Allowing MSO-affiliated processors to enter the market could jeopardize the viability of existing independent processors even more. Independent processors that aren't affiliated with a MSO are especially vulnerable if processor licenses are not capped.

Arguments against a cap on processor licenses

- 1. The market should develop naturally.** Utah is well known to be committed to free market principles. A cap on cannabis license types artificially influences market development.
- 2. More processors could lower prices and increase product diversity.** More businesses and processor brands creates more competition, which should lead to lower their retail prices and increase the diversity of products offered in the medical cannabis market. Some argue that the businesses with the most in-demand, patient-centered, and competitively priced products will

triumph – whether or not they are a part of the state medical cannabis market today or if they join in the future.

Options

Should the board want to approve a recommendation regarding capping medical cannabis processor licenses, it must consider the following questions:

1. Cap the number of medical cannabis processor licenses that UDAF may issue.
2. Continue to allow an unlimited number of medical cannabis processor licenses (status quo).