



City of Seattle

Michael McGinn  
Mayor

Peter Holmes  
City Attorney

Richard Conlin  
Council President

March 14, 2011

Dear Honorable Chairwoman Eileen Cody and Honorable Members House Health Care and Wellness Committee:

As Seattle's elected mayor, councilmembers, and city attorney, we stand together in support of SB 5073. Medical marijuana has been permitted under Washington state law for more than a decade, but there has never been clarity regarding how medical marijuana is to be produced, processed, and distributed. Although dispensaries currently exist in what is at best a legal grey area, more and more have been opening in Seattle and elsewhere in the state. It is in everyone's interest--the state's, local governments', law enforcement's, health care professionals', and patients'--to put in place a consistent, coherent, and rational regulatory system spelling out precisely how dispensaries and production facilities can operate in a way that provides legitimate patients with medical marijuana while protecting the health and safety of our communities. SB 5073, together with the state regulations that will follow, does that.

The question we face is not whether we are going to have dispensaries (they are already a reality, and increasing in number), nor is the question whether dispensaries will be regulated (some form of regulation--state or local--is both necessary and inevitable). The question is how dispensaries will be regulated. With the U.S. Department of Justice's October 2009 memorandum directing federal law enforcement resources away from "individuals whose actions are in clear and unambiguous compliance with existing state laws providing for the medical use of marijuana," enacting state law regulating dispensaries is the best way to create clear standards and minimize conflicts between state and federal authorities. Limiting ourselves to local regulation of dispensaries, although preferable to no regulation of dispensaries, will not be as effective as creating a state regulatory framework that falls within the protections of the federal memorandum.

We urge you to pass SB 5073. We also urge adoption of a limited number of amendments (attached), which will enhance local flexibility and discretion within SB 5073's state regulatory framework, protect health care professionals who act within their professional judgment to authorize patients to use medical marijuana, and clarify certain terms within the bill. Thank you for your consideration.

Sincerely,

Mayor Mike McGinn

City Attorney Peter Holmes

Council President Richard Conlin

Seattle City Hall, 7<sup>th</sup> Floor  
600 Fourth Avenue  
Seattle, WA 98124

Tel (206) 684-4000  
Fax (206) 684-5360  
www.seattle.gov





Councilmember Sally Bagshaw



Councilmember Tim Burgess



Councilmember Sally Clark



Councilmember Jean Godden



Councilmember Bruce Harrell



Councilmember Nick Licata



Councilmember Mike O'Brien



Councilmember Tom Rasmussen



## **Proposed Seattle Amendments to SB 5073**

### **I. Nonprofit and for profit business models**

We propose restoring the language from Section 201(9) of the second substitute, which allows both for profit and nonprofit licensed dispensaries. We do not see a meaningful benefit in limiting licensed dispensaries to a nonprofit corporation model. If dispensaries are going to function as businesses (as pharmacies and private practice health care professionals currently do), shoehorning them into a nonprofit business model will not be helpful. If, however, the legislature decides to retain the “nonprofit” language, Section 201(8) from the original version of the bill should replace Section 201(9) in the engrossed second substitute—“nonprofit medical organization” is not a defined term under Washington law, and “nonprofit corporation” would serve the same purpose more clearly and effectively.

### **II. Health care providers**

We understand the concerns behind the amendments that became Section 301(2), which are intended to ensure that health care providers do not abuse their professional authority by improperly authorizing or offering to authorize patients to use medical marijuana. However, we are concerned that some of this language in these amendments may go too far and chill some health care professionals’ willingness to issue authorizations in certain situations where medical marijuana serves a legitimate therapeutic purpose. To address this, we suggest removing “or primarily” from Section 301(2)(b)(iv) and replacing “primarily” with “solely” in Section 301(2)(b)(v). This creates a more easily enforceable bright line rule delineating the types of health care practices prohibited by SB 5073.

### **III. Zoning, regulation, and local control**

As local government officials, we recognize that it is important for cities, towns, and counties to have authority to regulate medical marijuana production, processing, and dispensing. We propose enhancing local governments’ zoning and regulatory powers by replacing Section 1102 with the following:

“Sec. 1102. Cities, towns, and counties may adopt and enforce reasonable zoning requirements, business licensing requirements, health and safety requirements, or business taxes pertaining to the production, processing, or dispensing of cannabis products within their jurisdiction.”

With these changes, the authorization and licensing authority in Sections 704 and 705 are unnecessary, and we propose deleting those sections. If, however, the legislature decides to retain language comparable to Sections 704 and 705, we suggest that Sections 704 and 705 be replaced with the following language:

“Cities and towns may by ordinance prohibit licensed dispensers from operating within their jurisdiction. Counties may by ordinance prohibit licensed dispensers from operating within their jurisdiction in locations outside the corporate limits of any city or town.”