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Reno Office

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Via Hand Delivery

The City of Sparks
City Government Office
431 Prater Way
Sparks, NV 89431

**Re: Greenleaf Wellness, Inc.
Dispensary Change of Location Request**

Dear Mayor Martini and Honorable Councilmembers:

This firm has been retained to represent Greenleaf Wellness, Inc. (“Greenleaf”) in connection with opening and operating a medical marijuana establishment, a dispensary, within the jurisdiction of the City of Sparks and pursuant to NRS Chapter 453A. I write now to explain Greenleaf’s request to change its dispensary location pursuant to Senate Bill 276 (“SB 276”), passed by the Nevada Legislature on June 1, 2015 and approved by Governor Sandoval on June 9, 2015. A copy of SB 276 is enclosed for your ease of reference.¹

As you know, Greenleaf is seeking to operate at a location that is different from the location in its medical marijuana establishment certificate issued by the Division of Public and Behavioral Health of the Nevada Department of Health and Human Services and permits issued by the City of Sparks. Currently, Greenleaf’s approved location is 1825 Freeport Boulevard, Sparks, Nevada, 89431. Greenleaf now seeks the City’s approval to change its location from 1825 Freeport Boulevard to 960 S. McCarran Boulevard, Sparks, Nevada 89431.

SB 276, effective October 1, 2015, provides the procedure by which a medical marijuana establishment, including a dispensary, may change its location. Specifically, Section 3 of SB 276 amends NRS 453A.350 to state as follows:

¹ Also available at http://www.leg.state.nv.us/Session/78th2015/Bills/SB/SB276_EN.pdf.

You may find the bill’s history at

<http://www.leg.state.nv.us/Session/78th2015/Reports/history.cfm?billname=SB276>.



A medical marijuana establishment may move to a new location under the jurisdiction of the same local government as its original location and regardless of the distance from its original location if the operation of the medial marijuana establishment at the new location as [sic] been approved by the local government. A local government may approve a new location pursuant to this subsection only in a public hearing for which written notice is given at least 7 working days before the hearing.

SB 276 § 3. In addition, Section 4 of SB 276 invalidates any and all provisions of any regulations promulgated by the Division of Public and Behavioral Health which conflict with Section 3, declaring that they “are void and must not be given effect to the extent of the conflict.” SB 276 § 4(1). Hence, to the extent that Nevada Administrative Code Chapter 453A provides for a conflicting procedure, those regulations are void and must not be given effect.

For these reasons, Greenleaf is requesting a change in location pursuant to the procedure adopted in SB 276 which became effective on October 1, 2015. *See* SB 276 § 6(3). The City of Sparks may approve the change of location, regardless of the distance from its original location, “in a public hearing for which written notice is given at least 7 working days before the hearing.” SB 276 § 3. Greenleaf therefore respectfully requests that the City approve a change in Greenleaf’s dispensary location from 1825 Freeport Boulevard to 960 S. McCarran Boulevard in a public hearing, and that the City publish written notice of the hearing at least 7 working days before the hearing.²

We are happy to answer any further questions you may have. Please feel free to contact me or my colleague Matt Gray at your convenience.

Sincerely,


Laura R. Jacobsen, Esq.

cc: Matt Gray
Greenleaf Wellness, Inc.

Encl.: SB 276

² “‘Working day’ means every day from 7 a.m. to 5 p.m., except Saturday, Sunday and any federal or state holiday.” NRS 455.105.

Senate Bill No. 276—Senators Segerblom and Farley

CHAPTER.....

AN ACT relating to medical marijuana; revising provisions relating to the allocation of medical marijuana establishment registration certificates; authorizing the transfer of a medical marijuana establishment registration certificate in certain circumstances; authorizing a medical marijuana establishment to move to a new location under certain circumstances; revising provisions governing the registration of certain medical marijuana establishments; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law limits, by the size of the population of each county, the number of certain medical marijuana establishments that may be certified in each county, and also limits the Division of Public and Behavioral Health of the Department of Health and Human Services to accepting applications for the certification of such establishments to not more than 10 days in any calendar year. (NRS 453A.324) **Section 1** of this bill requires the Division to reallocate the certificates provided for a county which has no qualified applicants to the other counties of this State. **Section 5** of this bill provides for the reallocation and issuance of such currently unused certificates.

Existing law prohibits the transfer of a medical marijuana establishment agent registration card or a medical marijuana establishment registration certificate. (NRS 453A.334) **Section 2** of this bill allows the transfer of ownership in a medical marijuana establishment and the transfer of a medical marijuana establishment registration certificate if the new owner: (1) meets the requirements of existing law relating to liquid assets; (2) submits certain information to allow the Division to perform certain background checks; and (3) proves that its acquisition of the establishment will not violate certain restrictions on holding multiple establishments.

Existing law establishes certain requirements for the location of a medical marijuana establishment. (NRS 453A.350) **Section 3** of this bill allows an establishment to move to a new location under the jurisdiction of the same local government if, after a public hearing, the local government approves the new location. **Section 4** of this bill requires the Division to revise its regulations to conform with the provisions of **section 3**.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 453A.324 is hereby amended to read as follows:

453A.324 1. Except as otherwise provided in this section and NRS 453A.326, the Division shall issue medical marijuana establishment registration certificates for medical marijuana

dispensaries in the following quantities for applicants who qualify pursuant to NRS 453A.322:

- (a) In a county whose population is 700,000 or more, 40 certificates;
- (b) In a county whose population is 100,000 or more but less than 700,000, ten certificates;
- (c) In a county whose population is 55,000 or more but less than 100,000, two certificates; and
- (d) In each other county, one certificate.

2. Notwithstanding the provisions of subsection 1, the Division ~~{shall not}~~ :

(a) Shall not issue medical marijuana establishment registration certificates for medical marijuana dispensaries in such a quantity as to cause the existence within the applicable county of more than one medical marijuana dispensary for every ten pharmacies that have been licensed in the county pursuant to chapter 639 of NRS. The Division may issue medical marijuana establishment registration certificates for medical marijuana dispensaries in excess of the ratio otherwise allowed pursuant to this subsection if to do so is necessary to ensure that the Division issues at least one medical marijuana establishment registration certificate in each county of this State in which the Division has approved an application for such an establishment to operate.

(b) Shall, for any county for which no applicants qualify pursuant to NRS 453A.322, within 2 months after the end of the period during which the Division accepts applications pursuant to subsection 4, reallocate the certificates provided for that county pursuant to subsection 1 to the other counties specified in subsection 1 in the same proportion as provided in subsection 1.

3. With respect to medical marijuana establishments that are not medical marijuana dispensaries, the Division shall determine the appropriate number of such establishments as are necessary to serve and supply the medical marijuana dispensaries to which the Division has granted medical marijuana establishment registration certificates.

4. The Division shall not, for more than a total of 10 business days in any 1 calendar year, accept applications to operate medical marijuana establishments.

Sec. 2. NRS 453A.334 is hereby amended to read as follows:

453A.334 ~~{The}~~

1. Except as otherwise provided in subsection 2, the following are nontransferable:

~~1.1~~ (a) A medical marijuana establishment agent registration card.

~~1.2~~ (b) A medical marijuana establishment registration certificate.

2. A medical marijuana establishment may transfer all or any portion of its ownership to another party, and the Division shall transfer the medical marijuana establishment registration certificate issued to the establishment to the party acquiring ownership, if the party who will acquire the ownership of the medical marijuana establishment submits:

(a) Evidence satisfactory to the Division that the party has complied with the provisions of sub-subparagraph (III) of subparagraph (2) of paragraph (a) of subsection 3 of NRS 453A.322 for the purpose of operating the medical marijuana establishment.

(b) For the party and each person who is proposed to be an owner, officer or board member of the proposed medical marijuana establishment, the name, address and date of birth of the person, a complete set of the person's fingerprints and written permission of the person authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(c) Proof satisfactory to the Division that, as a result of the transfer of ownership, no person, group of persons or entity will, in a county whose population is 100,000 or more, hold more than one medical marijuana establishment registration certificate or more than 10 percent of the medical marijuana establishment registration certificates allocated to the county, whichever is greater.

Sec. 3. NRS 453A.350 is hereby amended to read as follows:

453A.350 *1.* Each medical marijuana establishment must:

~~1.1~~ (a) Be located in a separate building or facility that is located in a commercial or industrial zone or overlay;

~~1.2~~ (b) Comply with all local ordinances and rules pertaining to zoning, land use and signage;

~~1.3~~ (c) Have an appearance, both as to the interior and exterior, that is professional, orderly, dignified and consistent with the traditional style of pharmacies and medical offices; and

~~1.4~~ (d) Have discreet and professional signage that is consistent with the traditional style of signage for pharmacies and medical offices.

2. A medical marijuana establishment may move to a new location under the jurisdiction of the same local government as its original location and regardless of the distance from its original location if the operation of the medical marijuana establishment at the new location as been approved by the local government. A local government may approve a new location pursuant to this subsection only in a public hearing for which written notice is given at least 7 working days before the hearing.

Sec. 4. 1. The provisions of any regulation adopted by the Division of Public and Behavioral Health of the Department of Health and Human Services which conflict with the provisions of NRS 453A.350, as amended by section 3 of this act, are void and must not be given effect to the extent of the conflict.

2. The Division of Public and Behavioral Health shall amend or repeal any of its existing regulations that conflict or are inconsistent with the provisions of NRS 453A.350, as amended by section 3 of this act, as soon as practicable after the effective date of this section.

Sec. 5. 1. Notwithstanding any other provision of law, the Division shall reallocate, on or before July 1, 2015, medical marijuana establishment registration certificates for medical marijuana dispensaries pursuant to NRS 453A.324, as amended by section 1 of this act, in the following quantities for applicants who qualify pursuant to NRS 453A.322:

(a) In a county whose population is 700,000 or more, eight certificates for the unincorporated area of such a county;

(b) In a county whose population is 100,000 or more but less than 700,000, one certificate for the unincorporated area of such a county; and

(c) In addition to the certificate described in paragraph (b), in a county whose population is 100,000 or more but less than 700,000:

(1) One certificate for each city whose population is 220,000 or more; and

(2) One certificate for each city whose population is 60,000 or more but less than 220,000.

2. The provisions of NRS 453A.326 do not apply to any medical marijuana establishment registration certificate issued pursuant to subsection 1.

3. Notwithstanding any other provision of law, the Division:

(a) Shall, on or before July 1, 2015, issue a medical marijuana establishment registration certificate pursuant to subsection 1 if:

(1) The medical marijuana establishment is in compliance with paragraph (a) of subsection 4; and

(2) The issuance of such certificate does not exceed the total number of certificates allocated.

(b) May, at any time, after receiving an application to operate a medical marijuana establishment:

(1) Register the medical marijuana establishment; and

(2) Issue a medical marijuana establishment registration certificate to the applicant.

(c) Shall, on or after the effective date of this act and before September 1, 2015, regardless of the Division's ranking of the applications to operate a medical marijuana establishment, issue a medical marijuana establishment registration certificate for the total number of certificates allocated unless the Division determines that the applicant is not qualified.

(d) Shall provide the rationale for determining that an applicant to operate a medical marijuana establishment is not qualified, within 30 days after such determination, to:

(1) An applicant who is denied a medical marijuana establishment registration certificate; and

(2) The local governmental jurisdiction where the proposed medical marijuana establishment is to be located.

4. A local governmental jurisdiction may:

(a) Issue a business license or deem a medical marijuana establishment in compliance with all local governmental ordinances or rules, regardless of any ranking of the establishment established by the Division.

(b) Consider diversity, location and community ties in determining whether the medical marijuana establishment is in compliance with all applicable local governmental ordinances or rules.

(c) Provide by ordinance a limitation on the total number of medical marijuana establishments which is less than the number allocated pursuant to subsection 1, if the local governmental jurisdiction determines that the community is adequately served by the number of current establishments.

5. Any application period established by the Division pursuant to this section:

(a) Is a one-time extension of the application period opened by the Division in calendar year 2014;

(b) Must not require a new application if an application has previously been submitted;

(c) Must not require the payment of any additional application fees if such fees have previously been paid; and

(d) Is separate and apart from and must not be included within the 10-day period for the acceptance of applications pursuant to subsection 4 of NRS 453A.324, as amended by section 1 of this act.

6. As used in this section:

(a) "Division" means the Division of Public and Behavioral Health of the Department of Health and Human Services.

(b) "Local governmental jurisdiction" means a city, town, township or unincorporated area within a county.

Sec. 6. 1. This section and sections 1 and 5 of this act become effective upon passage and approval.

2. Section 5 of this act expires by limitation on December 31, 2015.

3. Sections 2, 3 and 4 of this act become effective upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act, and on October 1, 2015, for all other purposes.