Suggested Changes to SB 1262 – Assembly Public Safety

1. **Licensees should be allowed to hold two or more classes of licenses.**

Section 18101(h) prohibits a licensee from holding more than one class of license. This provision is unnecessary and does not reflect the nature of the medical cannabis industry as it operates now or is likely to operate under this legislation. Many of the existing patient cooperatives and collectives, including those already permitted in cities and counties, would require more than one license to maintain their current operations. For example, cultivators often partially process their harvest by sorting, grading, trimming, and packaging for sale and transort to a dispensary facility or directly to a qualified patient.

ASA suggests deleting everything in Section 18101(h), except the first sentence:

> "Each application for a license approved by the department pursuant to this part is separate and distinct. ~~A licensee shall not hold a license in more than one class of specified medical marijuana activities. A licensee shall not be an officer, director, member, owner, or shareholder in another entity licensed pursuant to this part. The officers, directors, owners, members, or shareholders of a licensee in one class may not hold a license in another class, and may not be an officer, director, member, owner, or shareholder of an entity licensed pursuant to this part.~~"

If the Author hopes to avoid or limit vertical integration as a matter of policy, ASA suggests limiting each licensee to only one license in each class.

It may also be desirable to ensure that any licensee can also hold a license to transport medicine. That could be a separate license to transport issued in addition to a license to cultivate, process, or distribute; or the authorization to transport in compliance with the provisions of Sections 18103, 18104, and 18105 that is included in a license issued for another class of activity. This is a practical matter to avoid unnecessary complications when moving cannabis between various points in the process from seed to patient.

2. **A provision should be made for delivery services to meet the needs of certain patients.**

The bill is silent of delivery services, but does not make a place in the licensing model for dispensaries that provide medicine to patients at home. Dispensaries and dispensing facilities licensed pursuant to Section 18101 should be allowed to deliver medicine to homebound patients; patients in a hospital or residential care facility, where allowed by the facility; and legal patients in jurisdictions where storefront access is banned, unless delivery is prohibited under local ordinances. More than 200 cities and counties currently ban dispensaries. If delivery to some of these jurisdictions is not allowed, state law may inadvertently create "access deserts" where legal patient must do without safe, legal, and dignified

access – or rely on the unregulated illicit market – a condition that currently exists for tens of thousands of patients in California.

3. **The bill must allow existing facilities permitted under local law to remain open pending compliance.**

More than fifty cities and counties have adopted regulations for medical cannabis activity already. Medical cannabis dispensaries, cultivation sites, and other facilities already operating pursuant to a local license, permit, or other policy should be allowed to remain open until the Department can make a final decision on their licensing under this bill. ASA recommends adding language like this to the Section 18101 or another appropriate part:

> "Any medical cannabis testing laboratory, dispensary, cultivation site, dispensing facility, processing facility, or transporter, that would require a license pursuant to Section 18101 and that has already received a license, permit, or approval to operate in any city or county, may continue to operate until a decision to deny a license required under Section 180101 is made by the Department. This section shall include facilities with qualified immunity under Measure D, approved by the voters of Los Angeles on May 21, 2013."

4. **Expand the definition of "licensed cultivation site" to include all typical cultivation-related activities.**

Section 18100(d) defines a "licensed cultivation site" as a facility that grows medical cannabis. This definition should be expanded to include other typical activity associated with cultivation that may also take place as a normal part of operations in a medical cannabis garden. ASA suggests that subsection (d) be amended to read: "'Licensed cultivation site' means a facility that grows, harvests, , cures, and packages marijuana for medical use and is licensed pursuant to Section 18101." Expanding this definition does not mean that there cannot be a separate license for a processing facility, which may perform some of the same functions, but does not cultivate medical cannabis.

5. **Remove ambiguous reference to "other facility that makes medical marijuana available" in Section 1.**

Subsection (f) in the Finding in Section 1 says, "The police power, therefore, allows each city and county to determine whether or not a medical marijuana dispensary *or facility that makes medical marijuana available* [emphasis added] may operate within its borders." This language reflects the authority granted to cities and counties to bad dispensaries under *City of Riverside v. Inland Empire Patients Health and Wellness Center*. However, it could be interpreted as holding that local government can prohibit medical cannabis cultivation at any facility – including personal and non-commercial cooperative medical cannabis cultivation as authorized under Section 11362.5 and Article 2.5, commencing with Section 11362.7, of Division 10 of the Health and Safety Code. ASA suggests removing the phrase "other facility

that makes medical marijuana available" from subsection (f) for clarity and to harmonize this language with the bill's intent not to regulate activity legal under the Compassionate Use Act or the Medical Marijuana Program Act.

6. **Make annual audits discretionary.**

Section 18108.5(a) requires an annual audit of all licensees. This provision could be burdensome for the Department and the licensees. ASA suggests making the audits discretionary, based on cause or random selection: "The department ~~shall~~ may require an annual audit of ~~all licensees~~ any licensee…"

7. **Make civil fines flexible and more reasonable.**

Section 18110 requires a civil fine of $35,000 for each individual violation of the bill. Given the substantial new provisions, good faith errors and minor violations could result in unduly severe penalties. ASA suggest allowing the Department discretion in assessing fines and authorizing smaller fines with a cap of $35,000.

8. **Exempt cannabis flowers from the requirement to label dosage in milligrams.**

Section 111661(c)(1) requires that all cannabis products be labeled for dosage in milligrams. This standard does not properly apply to cannabis flowers ("buds"), in which dosages are not typically measures like cannabis preparations. Cannabis flowers should be exempt from subsection (c)(1): "Except for the flowering tops of marijuana plants (inflorescence), clear dosage in total milligrams delivered for all products."

9. **Specify by what standards "certified testing laboratories" are certified.**

Section 111658(a) defines "certified testing laboratories" as a laboratory that is certified by the Department to test cannabis pursuant to the certification standards for those facilities promulgated by the Department. ASA recommends that this bill direct the Department to certify testing laboratories pursuant to the American Herbal Pharmacopeia's *Cannabis Inflorescences* (2013, ISBN 1-92945-33-3, ISSN 1538-0297), which defines standards for lab testing cannabis and cannabis derived products.

10. **Provisions regarding taxation should be removed entirely.**

Cities and counties already have the authority, subject to voter approval, to assess sales and use tax, and may impose business licensing fees through the ordinary legislative process. Section 7295 in Chapter 3.8 is unnecessary, and may encourage excessive taxation that will make an already expensive medicine unaffordable for many low-income, but legal, patients. Local government should decide on tax issues independently. ASA suggests deleing Section 7295 all together.