



Date: February 17, 2010 Partnership Meeting

To: Partnership of Douglas County Governments

From: Mark Stevens, Castle Rock Town Manager

**RE:** Report of Medical Marijuana Working Group

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One of the Partnership's adopted 2010 goals is a collaborative effort on medical marijuana local regulation and state legislation. An organizational regional meeting was held in January. Douglas County, Castle Rock, Larkspur, Lone Tree, Parker, Highlands Ranch Metro District and Tri County Health attended. At this meeting collaborative action outcomes were agreed upon to support efforts to communicate and work together on local regulation and communicate and work together regarding state legislative proposals.

A Regional Medical Marijuana Working Group was then created and each entity invited to designate a lead representative. Douglas County, Castle Rock, Larkspur, Lone Tree and Parker are active participants and contributors to this working group. The working group has been meeting every Tuesday at 1:30 at the Douglas County 301 N. Wilcox, Castle Rock facility.

### **Local Regulations**

All of the entities have in place moratoria on medical marijuana facilities while local regulations and/or state regulation are put in place. All of the entities are in various stages of regulatory research and share this information upon request. Douglas County's moratorium expires first, on April 20, and County legal staff believes it is legally questionable for the County as a statutory county to extend its six-month moratorium. Consequently, Douglas County is farther along in development of proposed land use and other regulations. Pursuant to direction by the Board of County Commissioners, a regulatory proposal has been prepared and has now been circulated for referral comments and for entities to review with their governing boards. Features of the proposal for comment include allowing medical marijuana facilities only by use by special review in the general industrial district and further restricted by distance buffer requirements from schools, day care centers, residential areas and other areas. I would defer to County representatives for more detailed review of the proposal. Castle Rock staff will be presenting a range of land use, licensing and operational regulatory options, including the County's proposed approach, to the Town Council for initial discussion at its February 23 meeting.



Castle Rock will soon be scheduling a working group meeting with those particularly interested in options and approaches for local licensing of medical marijuana facilities.

### **State Legislation**

Senate Bill 10 - 109, sponsored by Senator Romer and focused on the physician – patient relationship, has met with relatively little opposition thus far and is working its way through the legislative process.

House Bill 10 - 1284, commonly referred to as the Massey Bill, has taken some interesting twists and turns. Originally anticipated in the drafting and input process as a bill that would focus on the care giver model and not authorize dispensaries, and having broad conceptual support from the law enforcement and local government communities, as introduced it is very different and creates an entirely new concept of non profit medical marijuana centers. The bill as introduced has drawn opposition from Attorney General Suthers and many law enforcement officials across the state, as well as some local governments and others. It has been assigned to the House Judiciary Committee with hearings currently scheduled to begin on March 4. The Regional Medical Marijuana Working Group discussed the bill at length at its February 9 meeting and agreed upon a set of concerns, which are attached hereto. A subcommittee of Kristin Decker of the County Attorney's office, Parker Town Attorney Jim Maloney and Castle Rock Town Attorney Bob Slentz have drafted a proposed amendment, which is attached hereto. Decisions need to be made on whether and how to further pursue this proposed amendment.

**12-43.3-304. General license provisions.** (1) THIS ARTICLE ~~DOES NOT PROHIBIT~~ AUTHORIZES A COUNTY, MUNICIPALITY OR CITY AND COUNTY ~~POLITICAL SUBDIVISION OF THIS STATE FROM TO PROHIBIT THE OPERATION OF MEDICAL MARIJUANA CENTERS OR~~ LIMITING THE NUMBER OF MEDICAL MARIJUANA CENTERS THAT MAY OPERATE IN THE ~~POLITICAL SUBDIVISION~~ COUNTY, MUNICIPALITY OR CITY AND COUNTY ~~OR FROM AND TO~~ ENACTING REASONABLE ~~ZONING~~ REGULATIONS APPLICABLE TO MEDICAL MARIJUANA CENTERS BASED ON LOCAL GOVERNMENT ZONING, HEALTH, AND SAFETY AND WELFARE LAWS FOR THE DISTRIBUTION OF MEDICAL MARIJUANA THAT ARE MORE RESTRICTIVE THAN THIS ARTICLE.

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**22-1.5-106(10)(a)**

(10) **Patient – primary caregiver relationship.** (a) A PERSON SHALL BE LISTED AS A PRIMARY CAREGIVER FOR NO MORE THAT FIVE PATIENTS ON THE MEDICAL MARIJUANA PROGRAM REGISTRY AT ANY GIVEN TIME; EXCEPT THAT THE STATE HEALTH DEPARTMENT MAY ALLOW A PRIMARY CAREGIVER TO SERVE MORE THAN FIVE PATIENTS IN EXCEPTIONAL CIRCUMSTANCES, PROVIDED THAT A PRIMARY CAREGIVER DOES NOT SERVE MORE THAN A TOTAL OF TEN PATIENTS AT ANY GIVEN TIME. IN DETERMINING WHETHER EXCEPTIONAL CIRCUMSTANCES EXIST THE STATE HEALTH AGENCY MAY CONSIDER THE PROXIMITY OF MEDICAL MARIJUANA CENTERS TO THE PATIENT.

**From:** [Mark Stevens](#)  
**To:** [Matt Krimmer](#); [Rhonda Gentry](#)  
**Subject:** Medical Marijuana Regulation/Legislation Work Group Outcomes  
**Date:** Thursday, February 11, 2010 10:52:12 AM

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The below email from Steve is the second attachment to the Partnership medical marijuana report.

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**From:** Steve Koster [mailto:SKoster@douglas.co.us]  
**Sent:** Tuesday, February 09, 2010 4:05 PM  
**To:** Wendy Holmes; Bill Clayton; Bob Slentz; Dan Collins; Douglas DeBord; Eve Curry-Harbison; Jack Hidahl; Jason Anderson; Jeannene Bragg; Jim Maloney; Keith Homersham; Kristin Decker; Lance Ingalls; Mark Stevens; Matt Krimmer; Michael Cairy; Pete Mangers; Phyllis O'Reilly; Ron Harvey; Terry Campbell; Terry Nolan; Timothy M Moore; Tom Barrella; Tony Lane; Tony Lombard; Tony Spurlock; ron.pinson@cityoflonetree.com  
**Subject:** Medical Marijuana Regulation/Legislation Work Group Outcomes

The work group on medical marijuana regulatory issues met this afternoon to discuss common areas of interest/concern to propose to our respective elected officials as a unified position on the "Massey Bill" (HB 10-1284). Staff in attendance has not yet discussed these positions with the elected officials, but we will have a follow-up meeting next Tuesday, February 16, at 1:30 in the Tower Room of the Wilcox Building at 301 Wilcox Street in Castle Rock (same place and time as previous meetings) for a status update. The group hopes to have an inter-governmental consensus in time to provide input to the legislative delegation prior to the bill being heard at any committees.

Points agreed upon for further discussion are:

- The need for explicit authority for counties and cities to prohibit medical marijuana centers in Section 12-43.3-304.
- The need for explicit authority for counties and cities to establish local regulations, both licensing and zoning, that are more restrictive than the provisions of the bill in Section 12-43.3-304.
- The need to cap the number of additional patients a primary caregiver may have under exceptional circumstances (above and beyond the 5 already allowed) as described in Section 25-1.5-106 (10)(a) at 5 or less so that the primary caregiver does not end up functioning as a medical marijuana center by another name.
- The bill needs to explicitly define "licensed medical marijuana center" and "local licensing authority."
- There was a common concern that the bill creates a new type of entity that does not exist in the Colorado Constitution: medical marijuana center. Currently dispensaries are operated under the premise that they are serving as the primary caregiver as described in the Constitution.
- There was a common concern that the hearing process proposed is overly complex. It was suggested that the bill could be simplified by authorizing counties and cities to create their own licensing processes, but leaving the procedural details up to the jurisdictions.
- There was a common concern that the 10% limit on sales of medical marijuana from one center to another is confusing and unenforceable in its current state. For example, it is not

clear if the limit applies to a single transaction or to multiple transactions within a time window (and, if so, what the time window would be).

- The group would like clarification on what, if any, differences there are between this bill and Senator Romer's bill (SB10-109) and what the plan is for reconciling the two bills.
- The group would like to hear from the sponsors what the purpose or benefit is of requiring the medical marijuana centers to be a Colorado nonprofit.
- There was general agreement that the bill's requirement that a marijuana grow operation would be considered a medical marijuana center (dispensary) and need the same licensing regardless of whether or not the product is sold on site.

To reiterate: these are topics for further discussion only and have not been adopted by any jurisdiction is its official position.

Thank you.

Steven E. Koster, AICP  
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