

Testimony of Alphonso David
Counsel to the Governor
February 13, 2019

Joint Budget Hearing on the Executive Budget Proposal for Cannabis Regulation

Good afternoon Members of the Senate and Assembly.

I am Alphonso David, Counsel to Governor Andrew Cuomo. I am joined this afternoon by the following members of the Governor's Administration:

Axel Bernabe, Assistant Counsel to the Governor for Health;

Jason Starr, Assistant Counsel to the Governor; and

Jen McCormick, First Deputy Commissioner of the Department of Agriculture and Markets.

I am also joined by **Dr. Chinazo Cunningham**, a member of the faculty at the Albert Einstein College of Medicine and a Member of the Governor's Workgroup on Cannabis Regulation. Dr. Cunningham is a specialist and researcher in the area of drug addiction and treatment.

We are pleased to testify before you today regarding the Cannabis Regulation and Taxation Act, the proposal in the Executive budget on comprehensive cannabis regulation.

This legislation is the product of extensive analysis and sets out a comprehensive framework to eliminate the existing illicit cannabis market. It also works to rectify the racial, ethnic and geographic disparities in the enforcement of current laws related to cannabis. The legislation incorporates the lessons learned from the 10 states that have already legalized adult-use cannabis and incorporates feedback from several members of this legislative body who have advanced proposals on this issue. In short, this bill creates a national model for legalization that preserves public health and safety, while supporting the kind of innovation that has consistently positioned New York as the national leader in social and economic policy.

There are four key, interrelated realities that informed our approach in drafting this proposal.

First, the dramatic relaxation of cannabis prohibition that has occurred nationally, and internationally, over the past two decades. To date, 10 states and the District of Columbia have legalized cannabis for recreational use by adults, and several other states and the federal government are actively considering proposed legislation. In addition, more than 30 states have legalized medicinal cannabis, and over 30 states and the Federal government allow the legal cultivation and distribution of hemp cannabis. The policy landscape continues to evolve rapidly and, significantly for New York, all of our neighboring jurisdictions have now either adopted or are actively considering proposals to legalize cannabis.

Second, like most states, New York itself has already taken important steps towards relaxing cannabis prohibition. In 2014, the Governor signed the Compassionate Care Act legalizing medical cannabis and providing relief to tens of thousands of New Yorkers living with serious health conditions. In 2015, the Governor signed the Industrial Hemp Farming Act, legalizing hemp cannabis and committing \$10 million to expand this highly profitable agricultural market. While these programs have been hugely successful in advancing important State policy, they operate under wholly separate frameworks creating untenable legal and regulatory inconsistencies that can only be remedied by bringing all programs under a single regulatory framework.

Third, despite significant investments in enforcement, prohibition has had negligible deterrent effects on access and consumption. For decades, states and localities have expended significant resources to build and maintain an infrastructure to sustain prohibition, including law enforcement, public defense, and incarceration related costs. Yet, during this period, the average rates of cannabis use across all demographics, including youth, have remained steady, consistent with national trends.

Finally, despite the lack of attention in the public discourse, there is a longstanding, well-developed, and increasingly sophisticated illicit cannabis market in New York that makes cannabis easily accessible, including to youth. The scope and value of this market and the risks of harm associated with the total lack

of regulation of the conduct of illicit suppliers and products sold to consumers calls for a shift in policy.

Accounting for these four realities, the Executive's proposal establishes an evidence based regulatory approach that has been successful in reducing the harms associated with intoxicating substances, such as tobacco and alcohol.

The proposal was based on more than a year of deliberation and consultation — starting with the Governor's January 2018 budget that commissioned a multi-agency study to assess the impact of a regulated cannabis program. Following months of deliberation, a review of academic literature, and analysis of data from other jurisdictions, the study concluded that the positive impacts of a regulated cannabis market outweigh the potential negative impacts. Importantly, it also found that areas that may be a cause for concern can be mitigated with regulation and the proper use of public education that is tailored to address key vulnerable populations.

Following the study, the Governor created a Workgroup to advise on the drafting of legislation and conducted a statewide listening tour — hosting 17 listening sessions across the state — from Long Island to Buffalo, from Binghamton to Watertown.

Members of the Administration also regularly engaged with regulators from Alaska, California, Colorado, Massachusetts, Michigan, New Jersey, Oregon, Rhode Island, Vermont, and Washington, as well as the federal and provincial governments of Canada.

The overarching lesson gleaned from this extensive process is that the most effective way to achieve the desired policy objectives is to have a single, comprehensive regulatory framework. The Cannabis Regulation and Taxation Act is that framework.

This bill is a best in class integrated approach to comprehensively regulate cannabis in its three markets — medicinal, adult use, and hemp. The framework is administered by a newly created **State Office of Cannabis Management** that

ensures that all aspects of the cannabis program protect and advance public health and preserve public safety.

In the **adult use market**, the Office will implement a three-tier model of distribution, similar to the alcohol model, limiting the number of growers and dispensaries in order to effectively manage the supply of cannabis. The Office will encourage equity through small growers and cooperatives, and provide access to training and capital to members of communities disproportionately harmed by disparate drug law enforcement.

In the **hemp market**, the Office will administer the licensing and testing of wellness and pharmaceutical grade cannabis products and facilitate partnerships between hemp growers and academic research centers to bring wellness products to market.

In the **medical market**, the Office will supervise the expansion of the medical cannabis program to ensure that patients have access in hard to reach geographic areas.

The Office will accomplish these goals within a robust **social justice and economic justice framework**, ensuring the broadest possible inclusion in all aspects of this new industry. In fact, the proposal requires that the Office administer a comprehensive social equity program to guarantee that disadvantaged communities have opportunities to participate.

With this legislation, we have the opportunity to establish a strong framework that addresses the significant social justice, economic justice, public safety, and public health concerns that confront us today - concerns that will only increase in scope and complexity with the expansion of the illicit in-state market and legal markets in neighboring jurisdictions. Taking no action and maintaining the status quo is simply no longer sustainable.